

EMPLOYEE RELATIONS COMMISSION

COUNTY OF LOS ANGELES

CHRISTOPHER D. BURDICK, ARBITRATOR

The Matter of the Arbitration between Association for Los Angeles Deputy Sheriffs, (Grievance of Kevin Brown) Grievant, and County of Los Angeles, Sheriff's Department	ERCOM Arb. No. 132-10 **AWARD**

The Arbitration of the appeal by Deputy Kevin Brown from a four-day disciplinary suspension imposed by the Sheriff's Department in August of 2010 took place at the Los Angeles County Employee Relations Commission Offices on December 12 and 13, 2011, and February 6, 2012. Grievant Brown, was represented by Elizabeth Gibbons, Esq., of Green & Shinee, A P.C. The Sheriff's Department was represented by William Balderrama, Esq.

The record of hearing in this matter was taken by Reporter Joyce Silverman, and the parties ordered only the transcript of the testimony of the Department's decision maker, Commander Daryl Evans.

I

STATEMENT OF THE ISSUE

The Issue stipulated to by counsel at the beginning of the arbitration hearing, as follows:

> Was there just cause for the four-day suspension of Deputy Kevin Brown, and, if not, what is the appropriate remedy?

II

RELEVANT POLICIES, RULES, AND MOU SECTIONS

This Arbitration arises under the Grievance Procedure set forth in Section 6, pp. 108-112 of the Memorandum of Understanding ("MOU", Cal. Gov Code Sec. 3505.1) between ALADS and the County of Los Angeles: Jt. Ex. 1. There being no objection by the Sheriff's Department to the appropriateness of arbitration, the dispute and the matter was referred to hearing by the Employee Relations Commission, in accordance with ERCOM Rules, without objection by the Department, on October 25, 2010.

The ALADS MOU sets forth the standard by which disciplinary actions against ALADS members in Bargaining Unit 611 shall be judged. Article 26 ("Managements Rights") requires "*proper cause*" for disciplinary action taken against Bargaining Unit 611 members:, as follows:

> It is also the exclusive right of the County to direct its employees, take disciplinary action for proper cause.... (Joint Ex. 1, Attachment 4, p. 59, Article 26, 2nd sentence.)

The LA Sheriff's Department Manual of Policy and Procedures, Sec. 3-01/050.10, ("Performance to Standards") states as follows:

3-01/050.10 PERFORMANCE TO STANDARDS
Members shall maintain sufficient competency to properly perform their duties and assume the responsibilities of their positions. Members shall perform their duties in a manner which will tend to establish and maintain the highest standard of efficiency in carrying out the functions and objectives of the Department.

Incompetence may be demonstrated by:

- A lack of knowledge of the application of laws required to be enforced,

- An unwillingness or inability to perform assigned tasks,

- Failure to conform to work standards established for the member's rank or position,

- Failure to take appropriate action on the occasion of a crime, disorder or other condition deserving police attention,

- Absence without leave,

- Unnecessary absence from an assigned area during a tour of duty.

In addition to the above, the following will be considered to be prima facie evidence of incompetence:

- Repeated poor evaluations,

- A written record of repeated infractions of the Department's rules, regulations, manuals or directives.

III

CONTENTIONS OF THE PARTIES

The Department contends that Deputy Brown unnecessarily put himself and/or his partner in an unsafe position, when he stopped his patrol vehicle directly in front of, and in close proximity to, two suspects Brown thought possibly involved in a recent armed robbery; that he failed to adequately communicate and/or coordinate with his partner when he approached and/or

dealt with the two suspects; that he failed to communicate and/or coordinate with the Lennox Station or any other personnel to make them aware of his location and status when he approached and/or dealt with the suspects; that he also failed to use available illumination (i.e., vehicle spotlights and/or flashlight) to better view any possible threats; that Brown thus violated Department policy and rules, and so "just cause" exists for his suspension, and his appeal thereof should be denied.

Deputy Brown does not contend that a 4-day suspension is excessive: he contends, quite simply, that there is no "just cause" for the imposition of **any** discipline in this case, because he did not violate any part of the Manual and that his conduct on the evening of September 14, 2009 did not violate any Department policy but rather was consistent with his training, experience and all Department policies; Brown also asserts a violation of his rights under the Peace Officers' Procedural Bill of Rights Act ("POBRA"), claiming the Department failed to truthfully notify him of the allegations for which he was being investigated, but, instead, advised him, both orally and in writing, that he was not the subject of an investigation and that the Department was only reviewing the propriety of his use of force; that Brown was never put on notice, prior to being interrogated, that he was under investigation for the tactical decisions he made during and leading up to the shooting incident; and so the suspension should be rescinded, all reference thereto should be removed from his personnel files, and he should be made whole for all wages, benefits and emoluments of employment lost as a result of the improper suspension.

IV

SUMMARY OF FACTS

Based upon the testimony of all the witnesses, the exhibits, the investigative reports, other documents admitted into evidence at the arbitration, and our review of the partial transcript of the hearing and the helpful post-hearing briefs of the parties, the Arbitrator believes that a preponderance of the evidence supports the following factual analysis:

Deputy Brown and His Employment History In September of 2009, Kevin Brown had been employed by the Los Angeles County Sheriff's Department for almost 8 years, having served [redacted] he was assigned to patrol duties at the Lennox Station, after [redacted] Deputy Brown has an unblemished record and has never been the subject of any departmental discipline.

The Robbery, The Dispatch and the Shooting. On September 14, 2009 Deputy Brown was assigned as a patrol deputy at the Department's Lennox Station. Brown and his partner, Deputy Christina Martinez, were assigned to patrol on their regular early morning shift, in patrol Unit 31, a marked black-and-white patrol car. Brown and Martinez were in full uniform. Brown drove and Deputy Martinez was the "book man", or passenger. Brown and Martinez had partnered before on several occasions and each believed they communicated well with the other.

At approximately 10:20 PM (2202 hours, in LASO-speak), Brown and Martinez were dispatched to assist another car, Unit 31D, on a "robbery just occurred" call. The information Dispatch gave to Brown and Martinez was that an armed robbery had just occurred at [redacted] and that two black males had robbed the victim of his wallet. at gunpoint, and then fled the scene in a dark colored Jeep Cherokee, driving off on Berendo, away from 117th Street, toward 119th Street, and out of sight.

In response, Brown and Martinez contacted the handling unit, Deputy [redacted] via radio, and, at the request of, began driving around the surrounding area looking for the suspects. Deputy Brown was within blocks of the robbery location and he began driving southbound on Van Buren Avenue, looking for the suspects' vehicle. As he drove past Poindexter Avenue, Brown saw what he thought were tail lights of a car at the west end of Poindexter; he also observed two black men standing in front of a house located two houses west of Van Buren on Poindexter. Brown drove southbound on Van Buren, reached 119th Street, made a U-turn, and then drove westbound on Poindexter, stopping at the spot where the two men were still standing.

Brown testified that he intended to engage in a consensual (and not custodial or confrontational) encounter, and during the hearing the Department's only witness conceded that was his intent and that he was entitled to do this. Thus, Commander Evans testified that this decision was not a violation of policy nor a poor tactical decision:

> I would agree with you that if it was a consensual encounter and you thought they were witnesses or people standing on the street that might offer additional input as to what occurred or speeding cars in the neighborhood, that would be a reasonable thing to do to pull up close, stay seated in your car and ask them a question only to them be surprised by the fact that: oh, oh, I've just discovered the robbers and here they are. And now you're responding to that event. Evans Tr. Vol.II, p. 62, lines 18-25.

Brown merely intended to ask these two citizens if they had seen the vehicle which Brown believed he had seen driving westbound on Poindexter. As Deputy Brown illuminated the two with his flashlight, one of the men, Darrick Collins, put his right hand under his long, baggy T-shirt, into his waistband, and began quickly walking backwards. Brown and Martinez got out of the patrol car. Brown, now on alert and concerned, yelled at Collins to stop, to show his hands, telling him he just wanted to talk to him. Martinez held the second man at gun point, ordering him down on the ground, as Deputy Brown followed Collins who was now running southbound down the driveway towards a fence and gate. While the other man complied with Martinez's orders and got on the ground, Collins repeatedly ignored Brown's orders to stop and to show his hands.

Brown told the Arbitrator that when Collins reached the gate, he reached up with his left hand, pulled the gate open, towards himself, while keeping his right hand tucked in his waistband, under his T-shirt, and as the gate opened, Collins turned to his left, toward Deputy Brown. Brown testified he now saw Collins had removed his right hand from his waistband and he was holding a dark object in his right hand, pointing towards Brown. The Deputy thought Collins was holding a gun and he ordered Collins to drop the weapon, but Collins ignored this shouted directive and continued to pivot toward Deputy Brown with what Brown believed to be a gun. Collins edged through the now-open gate, continued turning towards Brown, and continued to point what Brown now thought was a gun at Brown. Believing Collins was about to

shoot him, and fearing for his life, Brown fired 2-3 rounds from his pistol, striking and killing Collins. Tragically, it turned out that the object in Collins' hand was not a gun but a cell phone.

Post-Shooting Interviews. Within two hours of the shooting, Deputy Brown was interviewed by Homicide Detectives Martinez and Lankford at Lennox Station, who only questioned Brown about his use of lethal force, most specifically his state of mind at the time he fired his weapon. He was not questioned about his tactics or his tactical decision making. On November 17, 2009, Brown and Martinez were interviewed by the Internal Affairs Bureau ("IAB"). Both Deputies were advised by the investigators, in writing, that they were "not a subject" but were being questioned as part of a "force review", which "is an administrative review only." (Dept. Ex. 12, last page, Dept. Ex. 14, last page.) Both Deputies were advised, prior to the interrogation, that the "administrative force review" concerned "deputy involved shooting on 09/14/09 at [redacted] Poindexter Street, Los Angeles." Neither Deputy was advised that they were under investigation for, or being questioned about, their pre-shooting decisions and tactics. Significantly, and inexplicably, it also appears that in none of these interviews was either Deputy ever asked why they decided to stop and talk to the two men on the sidewalk – the Department assumed throughout the process, without asking, that Brown thought they were the suspects in the armed robbery. Sgt. David Flores, the IAB investigator, testified, on cross-examination, that he never asked Deputy Brown why he had stopped the patrol car where he did. In fact, Brown and Martinez testified, without contradiction, that they did not think that the two were suspects: they just wanted to ask these two citizens if they had seen a Jeep drive down Poindexter.

Executive Force Review Committee

Cmdr. Evans and two other Commanders constituted the Department's Executive Force Review Committee (EFRC), an *ad hoc* body which reports to the Undersheriff and which reviews cases in which deadly force has been used. This committee hears cases presented by the Internal Affairs Bureau and may have on hand subject matter experts from the Sheriff's Academy, as well as representatives of the Office of Independent Review (OIR). The EFRC

finding and review process is based solely on reports presented to the Committee and the presentation made by the IAB investigators – – none of the percipient witnesses attend. It is unclear why the EFRC operates in this manner: perhaps it is out of a desire to avoid the representational issues presented by POBRA. The three Commanders here listen to the IAB presentation and reviewed the reports of the Homicide investigators and of the IAB investigators.

After going through this process, the Committee found a number of policy violations and recommended to the Undersheriff that a Skelly Notice be issued, as described immediately below.

Skelly Notice and Notice of Suspension. On April 21, 2010, Deputy Brown was served with a letter of intent to suspend him for 4 days on the basis that he had violated the Performance to Standards section of the Department's Manual of Policy and Procedures, because he had employed poor tactics prior to and during the shooting (Dept. Ex. 2). Brown filed a grievance and exhausted the first two steps of the MOU's grievance procedure. (Attachment 3 to Joint Ex. 1, Request for Arbitration.) On August 13, 2010, Brown was advised that he would indeed be suspended for 4 days, based upon the same allegations related to his tactical decision making, on August 17-20, 2010. (Dept. Ex. 1.) This Arbitration is the final step of the MOU grievance procedure. The allegations of misconduct upon which the 4 day suspension are based are set forth in the Letter of Suspension (Dept. Ex. 1), as follows [1]:

> That in violation of Manual of Policy and Procedures section 3-01/050/10, Performance to Standards, on or about September 14, 2009, you failed to properly perform your duties and/or failed to perform your duties in a manner which will tend to establish and maintain the highest standards of efficiency in carrying out the functions and objectives of the Department and/or failed to conform to work standards established for your position, as evidenced by, but not limited to:

[1] As will be seen later, Commander Evans readily admitted that most of these allegations had no substance or any basis, but he could not explain why they were included in the Skelly Notice, even though it appears the Skelly Notice was the direct result of the EFRC hearing and process.

a) unnecessarily putting yourself and/or your partner in an unsafe position , when you stopped your patrol car directly in front of, and in close proximity to, two suspects you thought were possibly involved in a recent armed robbery; and/or

b) failing to adequately communicate with or coordinate with your partner (Deputy Christina Martinez) when you approached and/or dealt with two suspects you thought were possibly involved in a recent armed robbery; and/or

c) failing to communicate or coordinate with the station and/or any other personnel to make them aware of your location and status when you approached and/or dealt with two suspects you thought were possibly involved in a recent armed robbery; and/or

d) failing to request and/or utilize any additional personnel or Department resources to assist you in handling the incident once the suspect you thought was involved in the armed robbery started to flee, and/or

e) failing to use sound tactics that are consistent with Department training while attempting to apprehend the fleeing person you thought was an armed robbery suspect, and/or;

f) failing to use available illumination (i.e., vehicle spotlights and/or flashlight) to better view any possible threats, and/or;

g) unnecessarily positioning yourself too close to the fleeing person you thought was an armed robbery suspect, and/or;

h) unnecessarily putting yourself in an unsafe position and/or failing to use cover or concealment when following after the person you thought was an armed robbery suspect and was fleeing from you, resulting in your mind in the need to use deadly force. This thereby resulted in you shooting him even though he was unarmed and not involved in the robbery, and ultimately resulted in his death, and/or;

i) failing to accurately assess the level of threat posed by the

suspect which directly resulted in the shooting.

V

LEGAL DISCUSSION

A Burden and Quantum of Proof

In disciplinary administrative proceedings of this type, the burden of proving the charges rests upon the party making the charges, here the Department: see, e.g., Parker v City of Fountain Valley, 127 Cal. App. 3d 99, 113 (1981); Layton v. City of Pomona, 60 Cal. App. 3d 58, 64 (1976). The County must, by a preponderance of the evidence, prove both (1) the violation of reasonable County rules and (2) that the discipline imposed for any violations established is proportionate to the wrong. See, generally, Skelly v State Personnel Board, 15 Cal 3rd 175 (1975) at pp. 215-217.

The applicable quantum of proof required is proof by a preponderance of the evidence. In Skelly, supra, at p. 204, fn.19, the Supreme Court held that the appointing authority (there, the State) has the burden of proving by a preponderance of the evidence the acts of omissions upon which the charges are based and that those acts constitute sufficient "cause for discipline" under the relevant statutes.

In Fukuda v. City of Angels Camp, (1999) 20 Cal.4th 805, our Supreme Court addressed the issue of the trial court's exercise of independent judgment in an administrative mandamus proceeding under CCP Sec. 1094.5. The Court stated that the standard to be used by the local agency in determining what initial action to take is mere proof by a preponderance of evidence in support of its findings. Id. at 809.

Cal. Ev. Code section 115 states:

§ 115. Burden of proof
"Burden of proof" means the obligation of a party to establish by evidence a requisite degree of belief concerning a fact in the mind of the trier of fact or the court. The burden of proof may require a party to raise a reasonable doubt concerning the existence or nonexistence of a fact or that he establish the existence or nonexistence of a fact by a preponderance of the evidence, by clear and convincing proof,

> or by proof beyond a reasonable doubt.
> Except as otherwise provided by law, the burden of proof requires proof by a preponderance of the evidence.

"Preponderance of the evidence" here simply means that the Department must establish the facts of its case with evidence found by the trier-of-fact (here, the Arbitrator) as being more likely to be true than not. The "preponderance" standard simply requires the trier of fact "to believe that the existence of a fact is more probable than its nonexistence." In re Angelia P., (1981) 28 Cal.3d 908, 919.

B. The "Just Cause" Standard

The "Issue" to be resolved is whether there exists "just cause" for the discipline imposed. The phrase "just cause" has a well-established secondary meaning and is a term of art in the labor relations/employment law arena. The phrase "just cause" has been around for many, many years, has been interpreted and applied by labor arbitrators for decades, and carries with it a number of well-established secondary meanings. As stated by **Koven & Smith**, "Just Cause: The Seven Tests" (BNA, 1998):

> The just cause standard presents a cluster of issues (such as the scope of the arbitrator's authority versus that of the employer) and consists of a number of different elements, and some arbitrators emphasize one whereas some give more weight to others. Proof of misconduct is the key for some; others tend to stress due process considerations, such as the employer's obligation to investigate all the circumstances before making any decision about discipline. Finally, some arbitrators emphasize "equity over law", stressing the sprit rather than the letter of the just cause standard.

Koven & Smith, *op. cit.*, at p. 21.

The "Seven Tests" exhaustively examined by **Koven & Smith** are as follows:

> **1. NOTICE**: Did the Employer give to the employee forewarning or foreknowledge of the possible or probable consequences of the employee's disciplinary conduct?
>
> **2. REASONABLE RULE OR ORDER**; Was the Employer's rule or

managerial order reasonably related to (a) the orderly, efficient, and safe operation of the Employer's business, and (b) the performance that the Employer might properly expect of the employee?

3. INVESTIGATION: Did the Employer, before administering the discipline to the employee, make an effort to discover whether the employee did in fact violate or disobey a rule or order of management?

4. FAIR INVESTIGATION: Was the Employer's investigation conducted fairly and objectively?

5. PROOF: At the investigation, did the "judge" obtain substantial evidence or proof that the employee was guilty as charged?

6. EQUAL TREATMENT: Has the Employer applied its rules, orders and penalties even-handedly and without discrimination to all employees?

7. PENALTY: Was the degree of discipline administered by the Employer in a particular case reasonably related to (a) the seriousness of the employee's proven offense, and (b) the record of the employee in his [sic] service with the Employer? [2]

op. cit., at pp. 23-24.

In his Brief, Deputy Brown relies on Element No. 5 — a claimed lack of any proof (at arbitration and at every point during the IA and Skelly process) to support the charges against him.

Peace officers are often held to a higher standard for their conduct, both on- and off-duty, and may be (and often are) disciplined for violating the very laws they are employed to enforce. Parker v. State Personnel Board, (1981) 120 Cal.App.3d 84, 88 and Cranston v City of Richmond, 40 Cal 3rd 755 (1985). Peace officers have been recognized by the courts to hold a special position in society with emphasis on public trust and confidence: Hetherington v. California State Personnel Board, (1978) 82 Cal.App.3d 582, 590 and Wilson v. State Personnel Board, (1976) 58 Cal.App.3d 865.

But before we consider most of these classical "just cause" elements, the Department must first establish, by a preponderance of the evidence, that Brown actually engaged in acts of

[2] Here, Appellant does not argue about the length of the suspension nor contend that it was too long or too severe – he simply claims that he committed no misconduct whatsoever and therefore should never have been disciplined at all. We are therefore not faced with determining whether the doctrine of "progressive discipline" is here involved.

misconduct – that is, that he actually violated one or more of the Department's policies, rules and regulations.

It is important to state what this case is **not** about – the use of lethal, deadly force. The Department concedes that Brown was entitled to shoot Mr. Collins: it is his decisions, exercise of judgment and tactics that put him in a position where he had to use deadly force that form the basis of the suspension. The Department called only one witness, Commander Evans, the decision-maker, who testified to the Department's version (in error, it turns out) of the alleged acts of misconduct as set forth in the letter of suspension (Dept. Ex. 1). The Commander was a well-prepared, thorough, cogent and experienced witness, but he candidly admitted that many of the claims in the Letter of Suspension could not form a firm basis for discipline. In fact, he conceded that the only sound bases for disciplining Brown are those set forth in sub-paragraphs a, b, c, and f of the letter of suspension. (See, Testimony of Commander Evans, Vol I, pp. 32-66, particularly p. 59, lines 15-18, and pp. 60-63; Vol. II, pp. 86-87.).

Commander Evans admitted that nothing Deputy Brown did once he exited his patrol car, in response to Collins putting his hand under his shirt, into his waistband, while back-peddling away from the deputies, constituted a violation of Department policy. (Evans, Vol. I, pp. 54-55; p. 59, lines 1-11; pp. 60-63; Vol.II, p. 68, line 13 to p. 69, line 7; pp. 86-87.) As thus limited, and as conceded by the testimony of Commander Evans, the only remaining allegations against Brown, set forth in the letter of suspension, are that he: a) stopped the patrol car too close to two suspects he believed were involved in an armed robbery[3], b) failed to properly communicate with his partner before approaching two suspects he believed were involved in an armed robbery; c) failed to properly communicate with the station desk or other deputies in the field before approaching two suspects he believed were involved in an armed robbery; and f) failing to immediately illuminate, with the car's spot lights, the two suspects he believed were involved in an armed robbery.

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[3] It should be noted that Commander Evans testified that he believed sub-paragraphs "E" and "G" allege the same misconduct, which he testified was stopping the patrol car too close to the suspects, the same conduct charged in sub-paragraph "A." (Evans Tr. Vol. I, p. 59, lines 1-11.)

A preponderance of the evidence in this record does not support any of these allegations. They are as follows:

A. Stopping The Patrol Car Too Close To The Suspects

The evidence is undisputed that Deputy Brown never approached Collins in the belief that Mr. Collins was an armed robbery suspect, as charged by the Department. Brown did not stop in close proximity to a person he believed was an armed robbery suspect: Brown did not believe Collins was armed or a suspect until after Brown stopped to initiate a consensual conversation with Collins concerning the vehicle which Brown had just seen driving down Poindexter. It was only when Collins put his hand under his shirt, into his waistband, and backed away from the deputies that Brown thought to the contrary. Nor did Brown, as charged by the Department, unnecessarily put himself or his partner in an unsafe position, by stopping directly in front of, and in close proximity to, two suspects he thought possibly involved in a recent armed robbery.

As Commander Evans testified, the EFRC which considered the evidence obtained by IAB spent a significant amount of time trying to determine why Deputy Brown stopped his vehicle in the place shown in the photographs taken by the Homicide investigators. (Dept. Ex. 24; Evans Transcript, Vol. I, p. 37, line 24 to p. 38, line 6.) The three Commanders could find no explanation reasonable to them and so concluded that Deputy Brown violated policy. (Evans Tr. Vol. I, pp. 38, 41.) But Evans admitted, on direct and cross examination, that Deputy Brown was never asked, by either Homicide or IAB, why he stopped in the position he did. (Evans Tr. Vol. I, p. 23, lines 1-11; see also, Vol. II, p. 63, lines 1-8.) Instead of taking the simple step of putting this question to Brown or his partner, Martinez, themselves, the three Commanders simply assumed that Deputy Brown believed, at the time he positioned the patrol car close to the two men standing on the sidewalk, that these men were the armed robbery suspects. (Evans Tr. Vol. I, p. 43, line 21 to p. 35, line 11.).

In fact, however, as both Brown and Martinez testified, without contradiction, that is not what they believed when the drove up to the two men standing on Poindexter Street.

After making the U-turn on Van Buren, Brown saw the two men still standing on the sidewalk as he drove back towards Poindexter, leading him to believe that since the two men were still standing there, after a marked police car had just driven past them, this led him to believe the men were not armed robbers. So, Brown then turned west-bound onto Poindexter and pulled to the curb next to where the two men were standing because he did not believe they were robbery suspects but might be able to provide him some information concerning the vehicle whose rear lights Deputy Brown had just seen moments before driving west-bound on Poindexter.

Deputy Martinez's testimony corroborated Brown's, saying that when they turned west-bound onto Poindexter she observed the two men standing on the sidewalk and she, like her partner, did not believe they were the armed robbery suspects because they were still standing in the same spot and had not moved after the marked patrol car drove past. Martinez and Brown testified that if either or both had believed the two men were the suspects, their approach to their location on Poindexter Street would have been significantly different: Brown said he would have driven toward them at a significantly higher rate of speed, would have stopped significantly further back away, the Deputies would have exited their vehicle, guns drawn and pointed at the suspects, and they would have ordered the suspects to walk back toward them one at a time and then handcuffed and detained them for further investigation. These steps were not taken, according to Brown and Martinez, specifically because they did not, when they first approached the two men, believe they were the armed robbery suspects.

It was not until Mr. Collins put his hand under his shirt, into his waistband, and began walking backwards away from the Deputies, that Brown and Martinez realized that the men could well have been the robbery suspects. Commander Evans testified that this was not a violation of policy and was not a poor tactical decision:

> "I would agree with you that if it was a consensual encounter and you thought they were witnesses or people standing on the street that might offer additional input as to what occurred or speeding cars in the neighborhood, that would be a reasonable thing to do to pull up close, stay seated in your car and ask them a question only to them be surprised by the fact that: oh, oh, I've just discovered the robbers and here they are. And now you're responding to that event." Evans Tr. Vol. II, p. 62, lines 18-25.

Commander Evans also believed that Brown put Deputy Martinez in an unsafe position because when he stopped the patrol car his body blocked Martinez's shooting lane if the suspects attempted to engage the Deputies. But Deputy Martinez testified that Brown did not place her in an unfavorable position, because, according to Martinez, she could clearly see both men out the front windshield and if she had to engage them, she had a clear and unobstructed view and line of fire from which to do so. This mistake of fact by Commander Evans undercuts the Department's allegation that Brown put his partner in danger when he stopped the patrol car near Mr. Collins and his companion.

The evidence here of the only two percipient witnesses, Brown and Martinez, is uncontested: Brown and Martinez did not approach Collins and his companion believing they were armed robbery suspects, they approached them because they thought they might have information about the suspicious vehicle Brown had seen driving west on Poindexter. This was a reasonable tactic, consistent with the Deputies' training and experience, and based upon the testimony of the Department's own decision maker, Commander Evans, not a violation of policy.

B. <u>Failure To Communicate With His Partner</u>

Commander Evans testified that Deputy Brown violated policy by failing to properly communicate with his partner prior to contacting Mr. Collins and his friend, who Evans and the other members of the Executive Force Review Committee erroneously believed Brown thought were the suspects. Evans testified what he and EFRC expected of communication between Brown and Martinez as follows:

> Once the deputy had noticed what he believed to be two suspects that might possibly be involved in a robbery, according to the reports here, Deputy Martinez mentioned that she was looking out to the east. Deputy Brown had observed what he believed to be two suspects, and that's what caused him to stop and make the U-turn. And, according to her in this interview, when homicide asked her when she had seen the suspects, she mentioned that she did not take note of them until the car had made the u_turn and come up onto Poindexter, and that's when she noticed what Deputy Brown was looking at. So that would tell me that during that conversation there was not __ or rather during that activity there was minimal

conversation from the reports. Again, it's the absence of the information that's here.

* * *

Part of the concern was that the two deputies had only worked several times __ I believe four times __ prior to that, and we would have hoped that Deputy Brown would have at least alerted her to where the suspects were." Evans Tr. Vol. I, pp. 46-47.

But Brown's good faith, reasonable belief, at the time he and his partner first approached Collins and his friend, that the two were simply possible witnesses and not armed robbery suspects undermines any factual basis for the alleged policy violation found by EFRC. Evans conceded that the expected conversation between partners concerning how to handle a high risk situation need not occur just before or while that situation is unfolding:

> Q: [Balderrama] "And this dialogue that you thought would be prudent to have, how detailed would it have to be to satisfy, let's say, you regarding the __ that it was done in a proper manner?
>
> A: [Comdr Evans] "Well, there's two deputies present, and you would expect there would some level of planning that occurred. Perhaps they did it earlier in the evening, if they ever talked about what they would do if they engaged, you know, an armed suspect. I don't know if on the previous times they were together they spoke about that.
>
> "All I know is when reviewing this file, there was nothing that made any reference to that. And in reading the answers provided by Deputy Martinez in the homicide and I.A. investigation, there was no reference that would lead me to believe that any of that had happened. Evans Tr. Vol. I, p. 49.

On cross-examination, Evans even agreed that the conversation between partners for exigent or high risk circumstances need not occur every shift or before every encounter with a citizen during their shift:

Q [Gibbons] "Now, you also testified that this dialogue that you're talking about could have occurred not just in those few seconds between the U-turn and them pulling up in front of 1234 Poindexter but could have occurred earlier in the shift or a prior time that they had worked together; correct?

A [Evans] "It would be very wise for deputy sheriffs to discuss how to handle high-risk situations before they occur.

* * *

Q: "And during the six-month training program, deputies are also given specific training on how to handle high-risk situations when you're working with a partner; correct?

A: "Correct.

Q: "Okay. And, generally, deputies are trained that the conversation that they should have with their partner is along the lines of, 'if we stop a guy and he runs, I'll take the guy closest to me and you take the guy closest to you.' Correct?

A: "Well, they'd have a conversation, not necessarily that way. You wouldn't want two separate events going on.

Q: "Right.

A: "In other words, one chasing somebody in one direction. You'd want them to stay together and operate as a team.

Q: "So, then let me change the conversation. But the conversation would be, in broad terms, such as, 'if we get a guy who we think has a gun and he's in a car and the passenger runs, we'll both stay with the guy in the car.'

A: "Whatever they decide to do, as long as they're working together as a team.

Q: "Okay. And is it your expectation that every time those two deputies work together they repeat that conversation?

A: "Not necessarily. I mean, as long as __ if you've worked together for a period of time, you may know exactly how your partner is going to react back and forth. So the issue there is to

have a common response, whether you've talked about it or whether you just knew about it from prior experiences, it would be the same. What we don't want is independent action or someone not knowing because that creates a delay and requires a lot more time to, you know, perceive what's going on. Evans Tr. Vol. II, pp.46-47; 59-60.

Deputy Martinez and Deputy Brown had worked together in the past, and were each [redacted] and they both testified that based on their [redacted] and their experience working together, including a similar incident on the last shift they worked as partners, they both were well aware, without discussion, that 1) Deputy Brown only intended to speak with Collins and his friend when they first approached the men, and 2) that if the encounter turned violent, Martinez would hold the compliant man at gun point while Brown followed to contain or apprehend the non-compliant suspect, based upon their proximate locations to each suspect given their positions in the patrol car.

Evans testified that the purpose of the communication which the Department asserts Brown failed to engage was simply to ensure a unity of response, a team approach to the situation. But the record here shows without contradiction that Deputies Brown and Martinez were tactically on the same page when they first approached the two men, believing this was going to be a consensual stop designed to obtain information from the men, and that the two deputies engaged in exactly the type of team-work and unified tactical response desired once Mr. Collins began to back away from the Deputies with his hand in his waistband. Evans admitted, on cross-examination:

Q "And based on your review of the information in this case, was there any delay by either Deputy Brown or Deputy Martinez in contacting each of the suspects once they were at [redacted]

A "As far as Deputy Brown's action in contacting the suspects?

Q "Correct.

A "No. He pulled up and, according to the reports, initiated a conversation with one of the suspects.

Q "And they both got out of the car at the same time; correct?

A "I believe so, yes.

Q "Okay. And they acted as a team in that they both first told the compliant suspect to get on the ground; correct?

A "Yes.

Q "And they acted as a team in that Deputy Martinez held that guy while Deputy Brown followed the other suspect; correct?

A "Yes."

A preponderance of the evidence does not support the charge that Brown violated the Department's Performance to Standards policy in this regard.

C. <u>Failure to Communicate With The Desk</u>

Commander Evans claimed that Brown violated Department policy by failing to communicate with the station desk prior to contact with Mr. Collins and his friend, as follows:

Q [Balderrama] "Tell us what your thoughts are on this [Dept. Ex. 1, paragraph c], what concerns you had.

A "Well, again, failing to communicate or to utilize the other resources available. The ultimate goal for all deputy sheriffs is to minimize the risk of these high-risk situations. Certainly, you cannot eliminate this, but you want to do your best to minimize that risk for both yourself, for your partner and the community. And so part of that is not only planning with your partner but also advising the station that you might be engaged in activities where you're at.

As of today, there's no G.P.S. devices – particularly during that time __ so, we, the Sheriff's Department, would not know where the deputies were or that radio car was unless they broadcast that. And that is something you need to do before the critical activities take place.

So, that was the concern, a concentrated effort by available

resources to safely handle the situation, known as 'unity of command,' one of the nine principles of war. It's something that is essential when you are engaged in these types of dynamic, risky field events.

Q "And when you say 'failing to communicate' – and just focusing on the station, failing to communicate with the station __ during this process of Deputy Brown apparently seeing these two individuals making a U-turn, was it within that time period, before the vehicle came to a stop where it did, that it was your belief that he should have communicated with the station?

A "Well, I'm not sure who chose that word, but whenever you speak to the station, everyone else on the frequency would hear it as well. And so it might be as brief as 'Unit 31, possible suspects at Poindexter and Van Buren,' and then they would know that you are out of your car investigating. If they didn't hear from you shortly, they would probably call you on the radio to make sure that you are alive and well and/or at the same time you have other units that are in the area who listened to the fact that you may have come across the suspects and they would be responding to assist you as they are available.

Q "So, is it your belief that, let's say, up to the time that this deputy's vehicle came to a stop, he should have had some type of radio communication with someone?

A "Yes. Otherwise, you're operating independently.

Q "And the 'other personnel' that's referenced here, that could be other patrol vehicles that would overhear the transmission?

A "Yes." Evans Tr. Vol. I, pp. 51-52.

As with each of charges, this allegation is predicated upon the erroneous factual assumption that Brown believed the two men he saw standing on Poindexter were armed robbery suspects at the time he began driving toward them. As we have seen above, neither Brown nor Martinez held that belief up to the time that their vehicle came to a stop. Evans admitted that there would be no policy violation if Deputy Brown did not believe the two men were armed

robbery suspects:

> Q [Gibbons] "If they were just doing a consensual contact with these two gentlemen, would you expect them to get on the radio and say that in advance?
>
> A [Evans] "No." Evans Tr. Vol. II, p. 64, lines 22-25.

Indeed, the uncontradicted testimony was that deputies at Lennox Station do not, in the normal course of their patrol functions, contact the desk or ask for the "patch" (the radio frequency upon which other units can hear deputies' transmissions)[4] when first attempting to contact even suspects who are believed to be armed. Deputies Velasquez and [redacted] (assigned to Lennox Station for 12 and [redacted] respectively, both [redacted] and both having served as [redacted] at that station, [redacted] between them, a [redacted] testified they have never heard any deputy at Lennox Station make the type of broadcast described by Commander Evans, they have never been trained to make such a broadcast before contacting possible suspects, and they have never [redacted] any deputy sheriff to make such a broadcast. So, deputies who actually worked and provided training at Lennox both before and after Deputy Brown's shooting incident are in a far better position than Commander Evans to know and understand the actual communications which go on, and more directly, those in which deputies are specifically trained to engage with the desk, and other personnel, during and before high risk situations. Deputy [redacted] summarized the training which Deputies are actually given concerning the use of the radio: "*If you're not fighting it, chasing it or shooting it, there's no need to broadcast it.*" Brown intended only to talk with the two men, did not believe they were armed or were the suspects. Also consistent with his training and experience, as well as the consistent and uncontradicted testimony of Deputies Velasquez and [redacted] once Brown shot Collins, he got on the "patch" to coordinate responding and assisting units. Deputy [redacted] testified, based on his observations the night of the shooting, that Brown did nothing different, out of the ordinary or wrong in waiting to broadcast his contact with the men until after the shooting occurred.

---

[4] See, Evans transcript, Vol. II, p. 65, lines 1-18.

Thus, a preponderance of the evidence does not support this allegation.

D. Failure to Illuminate The Suspects

As with the three prior allegations, this allegation is again based upon the erroneous factual premise that Brown, as he approached the two men, believed they were armed robbery suspects. Commander Evans testified:

> "The wisdom of using the available lighting on the car, the spotlights, there's a distinct tactical advantage to shining a bright light in someone's eyes at nighttime. It minimizes their ability to engage you, should they be armed. It maximizes your ability to acquire a target. It takes about 28 minutes or so to recover from a bright light at night, for your night vision to fully return. It is a concept in battle known as "ooda loop," o_o_d_a, observation, orientation, decision and action. It's the concept made famous by General Boyd, who teaches fighter pilots how to engage in quick combat. But that's why you use a bright light.
>
> Arbitrator Burdick: And here you're not referring to the high beams of the vehicle, you're referring to the spotlights?
>
> The Witness: Either one would work.
>
> Arbitrator Burdick: Either one would work under these circumstances. All right."

Here, Brown testified that since he did not believe the two men were armed robbery suspects, he did not feel it proper to "light them up" with his spot light, based on his training and experience that if deputies shine spot lights in people's faces, those people usually consider it disrespectful and become uncooperative. Brown was only seeking quick cooperation and information from the two, and so he only illuminated their feet and hands, bodily instruments which could cause injury, rather than inciting them to non-cooperation by shining the spot light in their faces. The difference, again, between Evans' choice of tactical options and Brown's, is the underlying purpose for the stop. If Deputy Brown had believed the two men were the suspects he sought, he would have approached them differently, including using his

spot light. But because he reasonably believed the two were not the suspects, Brown instead illuminated their hands and feet with his flash light, using just enough light to see but not so much to insult or anger them. This claimed violation of policy is not supported by a preponderance of the evidence in our record.

E. Possible POBRA Violations Of Not Advising Deputy Brown Prior To Interrogation, That He Was Under Investigation For Tactical Decisions He Made Just Before The Shooting

Given our finding above, that no "just cause" exists for the imposition of **any** discipline, because Brown violated no policy, it is unnecessary for us to resolve the claims advanced of possible violations of the Peace Officers Bill of Rights Act (POBRA). The Association devotes much of its Brief to a thorough, well-reasoned, and exhaustive description of the Act, its protections, the cases which have arisen thereunder, and the application of those decisions and of the act itself to the and warnings and advisement given to Brown and Martinez prior to their interrogations by Internal Affairs and the Homicide investigators.

The POBRA grants certain rights, including specific procedural safeguards for deputies under investigation. Pasadena Police Officers' Association v. City of Pasadena (1990) 51 Cal.3d 564, 572, 273 Cal. Rptr. 584. The heart of the Act is Cal. Gov. Code Sec. 3303 which provides, in pertinent part, as follows:

> "When any public safety officer is under investigation and subjected to interrogation by his or her commanding officer, or any other member of the employee public safety department, that could lead to punitive action, the interrogation shall be conducted under the following circumstances. For the purpose of this chapter, punitive action means any action that may lead to dismissal, demotion, suspension, reduction in salary, written reprimand, or transfer for purposes of punishment.
>
> * * *
>
> "(c) The public safety officer under investigation shall be informed of the nature of the investigation prior to any interrogation."

As the California Supreme Court summarized the Act's protections in Pasadena Police Officers' Association, *supra*:

> To ensure fair treatment of an officer during an internal affairs interrogation, section 3303 requires that **the employing agency notify the officer to be interrogated** of the identity of the interrogating officers (§ 3303, subd. (b)), and **of 'the nature of the investigation prior to any interrogation'** (§ 3303, subd. (c)). **It also prohibits abusive interrogation techniques**. (§ 3303, subds. (a) [interrogation to be conducted at a reasonable hour], (b) [no more than two interrogators], (d) [length of the interrogation session not to be unreasonable; subject must be allowed to attend to physical necessities], and (e) [no abusive language, promises or threats].) If the interrogation focuses on matters likely to result in punitive action against the peace officer, section 3303 allows the officer to designate a representative to be present at the interrogation, provided that the representative is not someone subject to the same investigation. (§ 3303, subd. (h).)" [Emphasis added.] Pasadena Police Officers Assn., *supra*, 51 Cal.3d at p. 574.

POBRA provides "a catalogue of basic rights and protections which must be afforded all peace officers by the public entities which employ them." Runyan v. Ellis (1995) 40 Cal.App.4th 961, 964, 47 Cal.Rptr.2d 356, 359. As stated in People v. Valdez (1983) 144 Cal.App.3d 558, 564, 192 Cal. Rptr. 686:

> The Act is concerned primarily with affording individual police officers certain procedural rights during the course of proceedings which might lead to the imposition of penalties against them. (1982) 31 Cal.3d 676, 681, 183 Cal. Rptr. 520.

The Association strenuously argues that the Department here clearly, and deliberately, violated the unambiguous requirement that deputies under investigation be advised, **prior to his interrogation**, of the nature of the investigation. Cal. Govt. Code § 3303(c). Perhaps the Association is correct, but we need not address and resolve this complicated issue given our finding on the underlying merits, namely that a preponderance of the evidence on this record does not support any of the allegations made by the Department again Deputy Brown.

VI
CONCLUSION

A preponderance of the evidence does not support any of the charges brought. We are at a loss to understand how the Department could have suspended Deputy Brown for a number of charges and allegations which Commander Evans readily admitted were not supported by any of the evidence in the EFRC files. And there was no "just cause", in the classical arbitral and labor relations sense, to suspend Brown on the remaining charges and allegations, for four days from his position as a deputy sheriff.

AWARD

The Sheriff's Department is therefore ordered to remove any reference to the four-day suspension from Deputy Brown's personnel records, or from any other records used for personnel purposes. The Department is further ordered to restore to Deputy Brown his lost wages and any lost fringe, seniority, health and pension benefits, and other emoluments of employment which he lost as a result of the improper four-day suspension.

The Arbitrator retains jurisdiction to enforce this Award and to resolve any remedy/reinstatement/back pay disputes which may arise hereunder.

DATED: April 18, 2012

____

Christopher D Burdick
S.B.N. 042732

COUNTY OF LOS ANGELES

SHERIFF'S DEPARTMENT

"A Tradition of Service"

Date: April 29, 2010

OFFICE CORRESPONDENCE

FROM: MATT DENDO, CAPTAIN
LENNOX STATION

TO: CECIL W. RHAMBO, JR., CHIEF
FIELD OPERATIONS REGION II

Concur
Cecil W. Rhambo, Jr.

SUBJECT: **DEPUTY KEVIN BROWN - IV 2261013 - CASE DISPOSITION**

The purpose of this correspondence is to request a modification to the disciplinary assessment concerning Internal Affairs Bureau case IV2261013. The initial recommendation was for a seven (7) day suspension. I would like to propose a reduction in discipline to a four (4) day suspension.

On February 18, 2010, the Executive Force Review Committee (EFRC) listened to a presentation concerning a deputy involved shooting that occurred in the Lennox Station area. The September 14, 2009, incident involved Deputy Kevin Brown #[redacted]

The use of force and the level of force applied was ruled justified and within Department guidelines. On March 25, 2010, this ruling was supported by the District Attorney's Office, who concluded that "Deputy Brown acted in lawful self-defense when he used deadly force against Darrick Collins."

EFRC recommended a seven (7) day suspension for tactical concerns, which I found extremely harsh. The concerns of EFRC and the Office of Independent Review were as follows:

- The positioning of the radio car, upon first contact with two possible robbery suspects, was thought to be too close.
- EFRC felt that Deputy Brown bypassed a parked vehicle that he could have used as cover.
- EFRC felt that Deputy Brown got too close to the suspect, and was placed in a position where his choices were limited.

Commander Goran and I expressed that tactical issues like those described above have been addressed with additional training and not suspension in the past. A suspension should be imposed upon an employee who willfully and negligently breaches Department policy. Deputy Brown is a very mature, intelligent, hardworking, and good natured person, a professional in every sense of the word. My thoughts on why a seven day suspension is not warranted are as follows:

- Deputy Brown is committed to the community by providing efficient and effective police services. His performance in the field has been outstanding, as documented by his supervisors.

- Deputy Brown intended to stop his patrol car east of the people he planned to contact but unintentionally the radio car came to rest adjacent to the driveway.
- Deputy Brown did not violate the current foot pursuit policy of the Department. His reverence for human life and public safety for residents in the neighborhood was key when he decided to pursue Mr. Collins.
- The area where Mr. Collins ran was extremely dark, and Deputy Brown's attention was focused on Mr. Collins' hands in case he displayed a gun rather than his surroundings to look for cover in this rapidly evolving incident.
- Deputy Brown was moving to a position of cover, a parked SUV, prior to the suspect rotating in his direction. This was a good tactical move.
- During the 3 second foot pursuit, Deputy Brown was giving commands for Mr. Collins to stop. His intention was to maintain visual contact and not to apprehend Mr. Collins He kept a distance of 20 feet between he and Mr. Collins. Deputy Brown was surprised that Mr. Collins stopped at the gate to engage him instead of continuing to run past the gate and into the rear yard.
- Deputy Brown had no intention of following Mr. Collins into the rear yard knowing the Department's policy on foot pursuits of maintaining visual contact with his partner.
- The Training Bureau continues to reiterate that putting distance between yourself and suspects gives officers additional time to react. They train us on how to make pedestrian stops but admit that all situations can not be anticipated. Had Deputy Brown seen a gun when Mr. Collins was fleeing, he would not have pursued. He and his partner would have taken cover and utilized containment strategies.

As indicated in the 1989 United States Supreme Court case of *Graham v. Conner*, "The 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight." Officers are often forced to make split-second judgments concerning force and tactics in circumstances that are tense, uncertain, and rapidly evolving.

There was absolutely no malice involved in this tactical incident that would necessitate a seven day suspension.

[signature]

LARRY L. WALDIE
UNDERSHERIFF



Leroy D. Baca, Sheriff

County of Los Angeles
Sheriff's Department Headquarters

4700 Ramona Boulevard
Monterey Park, California 91754-2169



August 13, 2010

Deputy Kevin Brown, #[redacted]
[redacted]

Dear Deputy Brown:

On April 21, 2010, you were served with a Letter of Intention, indicating your right to respond to the Sheriff's Department's pending disciplinary action against you, as reported under IAB File Number 2261013. You were also advised of your right to review the material on which the discipline was based.

You did exercise your right to respond. However, after review and consideration of the response submitted to support your position, Department executives determined that the recommended discipline is appropriate.

You are hereby notified that you are suspended without pay from your position of Deputy Sheriff, Item No. 2708A, with this Department for a period of four (4) days effective August 17, 2010 through August 20, 2010.

An investigation under File Number IAB 2261013, conducted by Internal Affairs Bureau, coupled with your own statements, has established the following:

1. That in violation of Manual of Policy and Procedures Section 3-01/050.10, Performance to Standards, on or about September 14, 2009, you failed to properly perform your duties and/or failed to perform your duties in a manner which will tend to establish and maintain the highest standards of efficiency in carrying out the functions and objectives of the Department and/or failed to conform to the work standards established for your position, as evidenced by, but not limited to:

a) unnecessarily putting yourself and/or your partner in an unsafe position, when you stopped your patrol vehicle directly in front of, and in close proximity to, two suspects you thought were possibly involved in a recent armed robbery, and/or;

b) failing to adequately communicate and/or coordinate with your partner (Deputy Cristina Martinez) when you approached and/or dealt with two suspects who you thought were possibly involved in a recent armed robbery, and/or;

c) failing to communicate and/or coordinate with the station or any other personnel to make them aware of your location and status when you approached and/or dealt with two suspects you thought were possibly involved in a recent armed robbery, and/or;

d) failing to request and/or utilize any additional personnel or department resources to assist you in handling the incident once the suspect you thought was involved in the armed robbery started to flee, and/or;

e) failing to use sound tactics that are consistent with department training while attempting to apprehend the fleeing person you thought was an armed robbery suspect, and/or;

f) failing to use available illumination (i.e., vehicle spotlights and/or flashlight) to better view any possible threats, and/or;

g) unnecessarily positioning yourself too close to the fleeing person you thought was an armed robbery suspect, and/or;

h) unnecessarily putting yourself in an unsafe position and/or failing to use cover and concealment when following after the person you thought was an armed robbery suspect and was fleeing from you, resulting in the necessity in your mind to use deadly force. This thereby resulted in you shooting him even though he was unarmed and not involved in the robbery, and ultimately resulted in his death, and/or;

i) failing to accurately assess the level of threat posed by the suspect which directly resulted in the shooting.

Prior to determining this disciplinary action, the Department's Equity Oversight Panel and I have thoroughly reviewed the incident and your record with this Department.

You will hereby take notice that any future acts of misconduct may result in more severe disciplinary action.

You may appeal the Department's action in this matter pursuant to Rule 18.01(c) of the Civil Service Rules.

The Sheriff's Department reserves the right to amend and/or add to this letter.

Sincerely,

LEROY D. BACA, SHERIFF

Original Signed

Matthew A. Dendo, Captain
Commander, Lennox Station

Note: Attached for your convenience are excerpts of the applicable areas of the Manual of Policy and Procedures and Civil Service Rules.

MAD:KM:md

c: Advocacy Unit
Cecil W. Rhambo Jr., Chief, Field Operations Region II
Internal Affairs Bureau
Personnel Administration
Office of Independent Review (OIR)
Lennox Station/unit Personnel File

3-01/050.10 PERFORMANCE TO STANDARDS

Members shall maintain sufficient competency to properly perform their duties and assume the responsibilities of their positions. Members shall perform their duties in a manner which will tend to establish and maintain the highest standard of efficiency in carrying out the functions and objectives of the Department.

Incompetence may be demonstrated by:

A lack of knowledge of the application of laws required to be enforced,

An unwillingness or inability to perform assigned tasks,

Failure to conform to work standards established for the member's rank or position,

Failure to take appropriate action on the occasion of a crime, disorder or other condition deserving police attention,

Absence without leave,

Unnecessary absence from an assigned area during a tour of duty.

In addition to the above, the following will be considered to be prima facie evidence of incompetence:

Repeated poor evaluations,

A written record of repeated infractions of the Department's rules, regulations, manuals or directives.

04/01/96 MPP

(Attachment)
Civil Service Rule 18.01

C. An employee who is suspended for up to five (5) days may appeal such suspension to the Director of Personnel. Any such appeal must be in writing, shall contain specific detailed information, and must be received by the Director of Personnel within fifteen (15) business days of the employee's notification of the suspension. Please send your appeal to the Director of Personnel, Appeals Division, Kenneth Hahn Hall of Administration, 222 North Grand Avenue, Room 555, Los Angeles, California 90012. The Director of Personnel may not consider any information or charges made by the appointing power unless they are contained in the letter of suspension, nor any made by the employee unless the employee has previously provided them to the appointing power for consideration, unless such information or charges were not then known and could not have reasonably been expected to be known by the appointing power or employee. The Director of Personnel shall determine whether or not to consider the appeal, or whether or not the suspension is justified. (Ord. 88-0020 1 (part), 1988.)

I certify that on the date indicated below, I received the original of the attached **LETTER OF SUSPENSION** under File Number ***IAB 2261013*** as set forth in Section 18.01 of the Rules of the Los Angeles County Civil Service Commission.

8/13/10
DATE

KEVIN BROWN, [redacted]

I certify that on the date indicated below, I served the original of the attached letter of suspension on ***KEVIN BROWN*** as set forth in Section 18.01 of the Rules of the Los Angeles County Civil Service Commission.

8/13/10
DATE

WITNESS SIGNATURE

MATHEW DEVIDO
WITNESS PRINT

Please return this page along with Timekeeping Notification within two (2) business days to:

MAGGIE DIXON
INTERNAL AFFAIRS BUREAU
4900 S. EASTERN AVE. #100
CITY OF COMMERCE CA 90040
(323) 890-5314



LEROY D. BACA, SHERIFF

County of Los Angeles
Sheriff's Department Headquarters
4700 Ramona Boulevard
Monterey Park, California 91754-2169



July 30, 2010

Certified Mail No. 7009 0080 0001 1342 6670

Deputy Kevin Brown
[redacted]

Dear Deputy Brown:

This letter is to inform you that the Sheriff's Department has rendered its decision on the grievance you filed on April 22, 2010. Employee Relations received the recommendation from the Review Board hearing on July 13, 2010. Consistent with the provisions of your Memorandum of Understanding, the Review Board's recommendation was directed to the Assistant Sheriff's Office for final review and approval.

After due consideration of IAB No. 2261013, the Sheriff's Department has determined that the level of discipline is appropriate. Therefore, the settlement you desired will not be granted, and the four (4) day suspension shall stand.

Sincerely,

LEROY D. BACA, SHERIFF

Lawrence A. Brogan, Captain
Bureau of Labor Relations and Compliance



County of Los Angeles
Sheriff's Department Headquarters
4700 Ramona Boulevard
Monterey Park, California 91754-2169



April 21, 2010

Deputy Kevin Brown, #[redacted]
[redacted]

Dear Deputy Brown:

You are hereby notified that it is the intention of the Sheriff's Department to suspend you without pay from your position of Deputy Sheriff, Item No. 2708A, with this Department for a period of four (4) days.

An investigation under IAB File Number 2261013, conducted by Internal Affairs Bureau, coupled with your own statements, has established the following:

1. That in violation of Manual of Policy and Procedures Section 3-01/050.10, Performance to Standards, on or about September 14, 2009, you failed to properly perform your duties and/or failed to perform your duties in a manner which will tend to establish and maintain the highest standards of efficiency in carrying out the functions and objectives of the Department and/or failed to conform to the work standards established for your position, as evidenced by, but not limited to:

    a) unnecessarily putting yourself and/or your partner in an unsafe position, when you stopped your patrol vehicle directly in front of, and in close proximity to, two suspects you thought were possibly involved in a recent armed robbery, and/or;

    b) failing to adequately communicate and/or coordinate with your partner (Deputy Cristina Martinez) when you approached and/or dealt with two suspects who you thought were possibly involved in a recent armed robbery, and/or;

c) failing to communicate and/or coordinate with the station or any other personnel to make them aware of your location and status when you approached and/or dealt with two suspects you thought were possibly involved in a recent armed robbery, and/or;

d) failing to request and/or utilize any additional personnel or department resources to assist you in handling the incident once the suspect you thought was involved in the armed robbery started to flee, and/or;

e) failing to use sound tactics that are consistent with department training while attempting to apprehend the fleeing person you thought was an armed robbery suspect, and/or;

f) failing to use available illumination (i.e., vehicle spotlights and/or flashlight) to better view any possible threats, and/or;

g) unnecessarily positioning yourself too close to the fleeing person you thought was an armed robbery suspect, and/or;

h) unnecessarily putting yourself in an unsafe position and/or failing to use cover and concealment when following after the person you thought was an armed robbery suspect and was fleeing from you, resulting in the necessity in your mind to use deadly force. This thereby resulted in you shooting him even though he was unarmed and not involved in the robbery, and ultimately resulted in his death, and/or;

i) failing to accurately assess the level of threat posed by the suspect which directly resulted in the shooting.

Prior to determining this disciplinary action, the Department's Executive Force Review Committee and I have thoroughly reviewed the incident and your record with this Department.

You have the right to grieve this disciplinary action within ten (10) business days of receipt of this letter. Your grievance procedures may be found in your classification's negotiated Memorandum of Understanding.

Failure to respond to this Letter of Intent within ten (10) business days will be considered a waiver of your right to grieve and will result in the imposition of this discipline indicated herein.

The Sheriff's Department reserves the right to amend and/or add to this letter.

Sincerely,

LEROY D. BACA, SHERIFF

Original Signed

Matthew A. Dendo, Captain
Commander, Lennox Station

MAD:KM:md

c: Advocacy Unit
Employee Relations Unit
Cecil W. Rhambo Jr, Chief, Field Operations Region II
Internal Affairs Bureau
Office of Independent Review (OIR)
(File # IAB 2261013)

I certify that on the date indicated below, I received the original of the attached **LETTER OF INTENT** under File Number ***IAB 2261013.***

4/21/10

Date

KEVIN BROWN, #[redacted]

I certify that on the date indicated below, I served the original Letter of Intent to ***KEVIN BROWN.***

4/21/2010

Date

WITNESS SIGNATURE

MATT DENA

WITNESS PRINT

Please return this page within two (2) business days to:

MAGGIE DIXON
INTERNAL AFFAIRS BUREAU
4900 S. EASTERN AVE., #100
COMMERCE CA 90040
(323) 890-5314

COUNTY OF LOS ANGELES

SHERIFF'S DEPARTMENT

"A Tradition of Service"

DATE March 29, 2010

CONFIDENTIAL
DISPOSITION SHEET

FILE NO. IV 2261013

FROM: MATT DENDO, CAPTAIN
LENNOX STATION

TO: KARYN MANNIS, CAPTAIN
INTERNAL AFFAIRS BUREAU

SUBJECT: **KEVIN BROWN [redacted]**
Deputy Sheriff
Lennox Station
Field Operations Region II

Upon consideration of the facts developed in this investigation, the Executive Force Review Committee determined that Subject Brown receive a **four day suspension** for the reasons set forth in the attached documentation. This decision may be reconsidered based on the employee's response.

Matt Dendo, Captain

3/31/10
Date

CASE REVIEWED BY:

TODD S. ROGERS
COMMANDER
3/31/10
Date

CECIL W. RHAMBO, JR.
CHIEF
3/31/10
Date



LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
JUSTICE SYSTEM INTEGRITY DIVISION

STEVE COOLEY • District Attorney
JOHN K. SPILLANE • Chief Deputy District Attorney
CURTIS A. HAZELL • Assistant District Attorney

JANICE L. MAURIZI • Director

March 12, 2010

Captain David Smith
Homicide Bureau
Los Angeles County Sheriff's Department
5747 Rickenbacker Road
Commerce, California 90040

RE: J.S.I.D. File No. 09-0577
L.A.S.D File No. 009-09033-0378-013

Dear Captain Smith:

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the September 14, 2009, fatal shooting of Darrick Collins. We have concluded that Los Angeles Sheriff's Department (LASD) Deputy Kevin Brown acted lawfully in self-defense.

The following analysis is based on the reports and photographs submitted to this office on November 20, 2009, by Detectives Steven Lankford and Antoinette Martinez from the Homicide Bureau of the Los Angeles County Sheriff's Department. The District Attorney's Command Center was notified of this incident at 11:14 p.m. on September 14, 2009. The Deputy District Attorney Response Team, comprised of Deputy District Attorney Natalie Adomian and District Attorney Senior Investigator [redacted] was notified by the Command Center and responded immediately to the scene. They were given a briefing of the circumstances surrounding the incident and walk-through of the scene. Compelled statements were not considered as part of this analysis.

FACTUAL ANALYSIS

On September 14, 2009, at about 10:02 p.m., LASD Lennox Station received a 911 call reporting an armed robbery just occurred at [redacted] LASD Deputies immediately responded to the location and were informed by the victim that he had just been robbed at gunpoint by two male suspects who drove away in a southbound direction in possibly a grey Jeep Cherokee.

LASD Deputy Brown, driver, and Deputy Martinez, passenger, were on-duty in a marked patrol vehicle and in full-uniform. They received a broadcast of the robbery and description of the suspects. They were directed to check the area for the suspects. Brown drove towards the location where the suspects were last seen. About two blocks from where the robbery took place, and approximately two minutes after the robbery broadcast, Brown and Martinez observed two males, later identified as Darrick Collins and [redacted] matching the descriptions of the robbery suspects.[1] Collins and [redacted] were standing in the driveway of a residence located at [redacted] a location about [redacted] from the robbery.

Deputy Brown stopped the patrol vehicle in front of the location to investigate whether Collins and [redacted] committed the robbery. Upon the officers' arrival, Collins immediately distanced himself from [redacted] by walking away. Deputy Brown illuminated Collins with his flashlight. Brown saw Collins move his right hand underneath his shirt to the middle of his waistband. Brown believed Collins was reaching for a weapon. Brown exited his patrol vehicle and ordered Collins to "stop" and show his hands. Collins turned and ran towards the residence's closed side wooden gate. Brown followed Collins. Deputy Martinez exited the patrol vehicle and at gunpoint detained [redacted] who had complied with police commands to lay on the ground. Collins, with his right hand in his waistband, reached with his left hand to grab the top right side of the wooden fence and pull it open in an outward position, right to left, and towards the street. Collins turned to his left and towards Brown who was standing about 15 feet away and to the left of Collins. Brown, aided by the light mounted on his handgun, observed a black object in Collins' right hand that he believed was a gun. Brown ordered Collins to drop it, stop, and show his hands. Collins refused to comply. Believing Collins was going to shoot him, Brown fired three successive shots from his service weapon at Collins who began positioning himself on the other side of the fence. The shots penetrated the wood slats and struck Collins' body.

Deputies entered the rear yard and observed Collins laying in a prone position. His arms were underneath him and a black cellular phone beside him. Collins was pronounced dead at the scene by responding paramedics.

Dr. Jeffrey Gutstadt of the Los Angeles County Coroner's Officer performed the autopsy on Darrick Collins. Dr. Gutstadt observed that Collins was shot three times on his left side. He opined the cause of death was multiple gunshot wounds.

A plastic baggie containing 24 ecstasy tablets was recovered from Collin's pocket. Darrick Collins was previously [redacted]

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[1] It was later determined that Darrick Collins and [redacted] were not involved in the robbery.

CONCLUSION

California law permits the use of deadly force in self defense if it reasonably appears to the person claiming the right of self-defense that he actually and reasonably believed that he was in imminent danger of great bodily injury or death. California Criminal Jury Instruction 3470.

The "reasonableness" of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. Graham v. Conner (1989) 490 U.S. 386, 396-397. This analysis must also allow for the fact that officers are often forced to make split-second judgments, about the amount of force that is necessary, in circumstances that are tense, uncertain, and rapidly evolving. Id.

The evidence examined in this investigation shows that Deputies Brown and Martinez were searching the area for a suspects involved in a recent nearby armed robbery. They attempted to question [redacted] and Collins. However, Collins ran away, grabbed what appeared to be a handgun from his waistband, and turned towards Deputy Brown. Brown, believing Collins was about to shoot him, responded with deadly force.

We conclude that Deputy Brown acted in lawful self-defense when he used deadly force against Darrick Collins. We are therefore closing our file and will take no further action in this matter.

Very truly yours,

STEVE COOLEY
District Attorney

By

NATALIE ADOMIAN
Deputy District Attorney
(213) 974-3880

c: Deputy Kevin Brown #[redacted]

Los / geles County Sheriff's Dep tment

Officer Involved Shooting

Report Date:	Bureau/Station/Facility:	Admin. Invest.?	Hit?
09/14/09	Lennox Station	☐	☒

Incident Information

URN:	009-09033-0378-013	Date: 09/14/09	Time: 2207 hours
City or Station:	Lennox Station	Nature of Incident:	While searching for a robbery suspect, Deputies Brown and Martinez saw Darrick Collins standing in a driveway. Deputy Brown exited his patrol car and Collins ran toward the rear of the property. When he arrived to the side gate, he turned toward Deputy Brown who believed he was armed with a firearm. Deputy Brown fired at Collins, striking him three times through the gate. Collins died at the scene.
Location:	[redacted] Poindexter Avenue Los Angeles, CA 90044		

Location Type (*circle one or more*): Backyard, Beach, Business, Freeway, Industrial, Park, Parking Lot, **Residence** (circled), Rural, School, Street, Other: ______

Lighting (*circle only one*): **Darkness** (circled), Daylight, Other, Street Lights

Weather (*circle only one*): **Clear** (circled), Cloudy, Fog, Rain

Distance: 15-20 feet

Incident Type (*circle one or more*): Accidental, Armed Person, Fleeing Suspect, Foot Pursuit, Gun Take Away, Moving Vehicle, Sniper/Ambush, Startle, Struggle Involved, Traffic Stop, **Unarmed Person** (circled), Unintentional, Vehicle Pursuit, Warrant Service, Warning Shot, Other: ______

Initiated by (*circle only one*): Arrest Warrant, **Call** (circled), Observation, One Person Unit, Other, Search Warrant, Two Person Unit

Prior Activity (*circle only one*): Detective, Inmate Transport, Other, **Routine Patrol** (circled)

Total # of Shots Fired by Deputy: 3

Total # of Shots Fired by Suspect: 0

Aero Unit? ☒ Canine Unit? ☐

Employee Witnesses

Employee #	Last Name	First Name	M.I.	ShiftTime (*circle only one*)	ShiftType (*circle only one*)
[redacted]	Martinez	Cristina	M.	**EM** (circled) PM Day	**Regular** (circled) Overtime Off Duty
				EM PM Day	Regular Overtime Off Duty
				EM PM Day	Regular Overtime Off Duty

Non Employee Witnesses

Last Name	First Name	M.I.	Street Address	City	Zip Code	Work Ph	Home Ph
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	-	-
[redacted]	[redacted]		[redacted]	[redacted]	[redacted]	-	-
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	-	-

Supervisors

Employee #	Last Name	First Name	M.I	(*circle one or more*)
[redacted]	[redacted]	[redacted]	-	**On Duty** (circled), Present during shooting, Witness to shooting, Involved in shooting
				On Duty, Present during shooting, Witness to shooting, Involved in shooting

Watch Sergeant

Employee #	Last Name	First Name	M.I.
[redacted]	Inge	Michael	R.

Watch Commander

Employee #	Last Name	First Name	M.I.
[redacted]	Wegener	Kent	A.

PSTD Use Only
SH # 2251370

Officer Involved Shooting

URN: 009-09033-0378-013

Rollout Information

Arrival Date	Arrival Time	Date Submitted	Date of Recommendation
09/14/09	0015		

Employee #	Last Name	First Name	M.I
[redacted]	Ault	Alicia	A.
[redacted]	Flores	David	
[redacted]	Allen	Victor	M.

Shooting / Force Information

Method

(AW) Arwen
(BC) Baton:(Control)
(BI) Baton:(Impact)
(BF) Bodily Fluids
(CN) Canine
(CR) Carotid Restraint
(CH) Choke Hold
(CT) Control Holds:(Control Techniques)
(TT) Control Holds:(Team Takedown)
(TD) Control Holds:(Takedown)
(CE) Chemical
(OC) Chemical Agents (OC Spray)
(TG) Chemical Agents (Tear Gas)
(EX) Explosives
(FH) Firearm (Handgun)
(FR) Firearm (Rifle)
(FS) Firearm (Shotgun)
(FO) Firearm (Other)
(FB) Flashbang
(FL) Flashlight
(OE) Other Weapon: Edged
(OV) Other Weapon: Vehicle
(OB) Other Weapon: Blunt Object
(OO) Other Weapon: Other
(PK) Personal Weapon: Feet/Leg: (Kick)
(PS) Personal Weapon: Feet/Leg: (Sweep)
(PH) Personal Weapon (Hand/Arm)
(PP) Personal Weapon (Push)
(PO) Personal Weapon (Other)
(RS) Resistance
(CN) Restraint Device (Capture Net)
(RH) Restraint Device (Handcuffs)
(HB) Restraint Device:Hobble (Legs Only)
(TP) Restraint Device:Hobble (TARP)
(RE) Restraint Device: REACT Belt
(SP) Sap
(SH) Shield
(SG) 37mm Stinger
(SB) Sting Ball
(ST) Stun Bag
(TR) Taser
(UC) Uncooperative

Type of Injury

(AB) Abrasion
(BR) Bruise
(BU) Burn
(CP) Complaint of Pain
(CO) Concussion
(DH) Death
(DI) Dislocation
(DB) Dog Bite
(FR) Fractures
(GS) Gunshot
(HB) Human Bite
(LC) Lacerations
(ND) Nerve Damage
(OD) Organ Damage
(PA) Paralysis
(PW) Puncture Wound
(SD) Soft Tissue Damage
(ST) Sprain/Twists
(UN) Unconscious
(RM) Refused Med Treatment
(NN) NONE

Body Part Injured

(AD) Abdomen
(AK) Ankle
(AR) Arm
(BK) Back
(BT) Buttocks
(CH) Chest
(EL) Elbow
(FA) Face
(FE) Feet
(FI) Fingers
(GE) Genitals
(GR) Groin
(HD) Hand
(HE) Head
(HI) Hip
(IN) Internal
(KN) Knees
(LE) Leg
(NK) Neck
(SH) Shoulder
(WR) Wrist

Brand

(AK) AK-47
(BN) Benelli
(BR) Beretta
(BW) Browning
(CH) Charter Arms
(CO) Colt
(DA) Davis Industries
(GL) Glock
(HA) Harrington & Richardson
(HI) Hi Standard
(HK) H & K
(IT) Ithica
(IV) Iver Johnson
(JE) Jennings
(LO) Lorcin
(LU) Luger
(MA) Marlin
(MO) Mossberg
(NC) NCI aka SKS
(NA) North American
(NO) Norinco
(RA) Raven
(RM) Remington
(RG) RG
(RI) RGI
(RO) Rossi
(SW) Smith & Wesson
(SR) Sturm Ruger
(ST) Sterling
(TA) Taurus
(WE) Weatherby
(WN) Winchester
(US) US Government
(YY) Handmade (Inmate)
(XX) Homemade (Non-Inmate)
(ZZ) Other Brand

Caliber

(9) 9 mm
(10) 10 mm
(12) 12 guage
(20) 20 guage
(21) .22-250
(22) .22 caliber
(23) .223 caliber
(24) .243 caliber
(25) .25 caliber
(30) .308 caliber
(35) .357 caliber
(36) 30-60 caliber
(38) .38 caliber
(40) .40 caliber
(41) .410 guage
(44) .44 caliber
(45) .45 caliber
(50) 50 mm
(SL) Slug
(WW) Other caliber

FORCE APPLIED *(one code per block)*

Used By (E# or S#)	Used Against (E# or S#)	Method (Code)	Brand (Code)	Caliber (Code)	Authorized Weapon? (Y/N)	Authorized Ammunition? (Y/N)	Type of Injury (Code)	Body Part (Code)
S#1	E#1	UC					NN	
E#1	S#1	FH	HK	45	Y	Y	GS	LE
E#1	S#1	FH	HA	45	Y	Y	GS	AD
E#1	S#1	FH	HA	45	Y	Y	GS	NK

See Front Side

Officer Involved Shooting
Involved Employee Information

URN: 009-09033-0378-013

Involved Employee

E 1

Employee # [redacted]	Last Name: Brown	First Name: Kevin	M.I.: M.
Sex: M Race: B	Rank: Deputy Sheriff	Unit Assignment: Lennox Station	Work Assignment (Unit #, Module, etc.): 31/EM
ShiftTime (*circle only one*): (EM circled) PM Day	ShiftType (*circle only one*): (Regular circled) Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☒	Coroner Case # Interviewed? ☐
Hrs of sleep prior to shooting: 6	Duty Time (hrs): [redacted]	Clothing (*circle only one*): Plain Clothes no Vest, Raid Jacket w/ Vest, Plain Clothes w/ Vest, Uniform no Vest, Raid Jacket no Vest, (Uniform w/ Vest circled)	Other Factors:
Age: [redacted]	Height: 601 Weight: 210		
Range Qualification Date: [redacted]	PPC Qualification Date: [redacted]	Laser Training Date: [redacted]	
Certified with Weapon Used? [redacted]	Patrol Certification? [redacted]	Certification Unit: [redacted]	Prior Shootings? [redacted] Number of Prior Shootings: [redacted]
Field Training Officer Emp # [redacted]	Last Name [redacted]	First Name [redacted]	M.I. [redacted]
Field Training Officer Emp # [redacted]	Last Name [redacted]	First Name [redacted]	M.I. [redacted]

E __

Employee #	Last Name	First Name	M.I.
Sex: Race:	Rank	Unit Assignment:	Work Assignment (Unit #, Module, etc.):
ShiftTime (*circle only one*): EM PM Day	ShiftType (*circle only one*): Regular Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case # Interviewed? ☐
Hrs of sleep prior to shooting:	Duty Time (hrs):	Clothing (*circle only one*): Plain Clothes no Vest, Raid Jacket w/ Vest, Plain Clothes w/ Vest, Uniform no Vest, Raid Jacket no Vest, Uniform w/ Vest	Other Factors:
Age:	Height: Weight:		
Range Qualification Date:	PPC Qualification Date:	Laser Training Date:	
Certified with Weapon Used? ☐	Patrol Certification? ☐	Certification Unit:	Prior Shootings? ☐ Number of Prior Shootings:
Field Training Officer Emp #	Last Name	First Name	M.I.
Field Training Officer Emp #	Last Name	First Name	M.I.

E __

Employee #	Last Name	First Name	M.I.
Sex: Race:	Rank	Unit Assignment:	Work Assignment (Unit #, Module, etc.):
ShiftTime (*circle only one*): EM PM Day	ShiftType (*circle only one*): Regular Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case # Interviewed? ☐
Hrs of sleep prior to shooting:	Duty Time (hrs):	Clothing (*circle only one*): Plain Clothes no Vest, Raid Jacket w/ Vest, Plain Clothes w/ Vest, Uniform no Vest, Raid Jacket no Vest, Uniform w/ Vest	Other Factors:
Age:	Height: Weight:		
Range Qualification Date:	PPC Qualification Date:	Laser Training Date:	
Certified with Weapon Used? ☐	Patrol Certification? ☐	Certification Unit:	Prior Shootings? ☐ Number of Prior Shootings:
Field Training Officer Emp #	Last Name	First Name	M.I.
Field Training Officer Emp #	Last Name	First Name	M.I.

SUPPLEMENTAL NON-EMPLOYEE WITNESSES
Los Angeles County Sheriff's Department

Non-Employee Witnesses

Last Name	First Name	M.I.	Street Address	Zip Code	Work Ph	Home Ph
[redacted]	[redacted]		[redacted]	[redacted]	-	-
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	-	-

Officer Involved Shooting
Suspect Information

URN: 009-09033-0378-013

Suspect Information

S 1

Last Name: Collins	First Name: Darrick	M.I.: M.
AKA Last Name: Huckaby	First Name: Eric	M.I.: E.

Sex: M Race: B	Street Address: [redacted]	City: [redacted]	State & Zip Code: [redacted]
Work Phone: ------	Home Phone: ------	Social Sec[redacted]	Driver's Licen[redacted]
Age: 36 D.O.B. 07/20/73	Height: 601 Weight: 190	FBI #: [redacted]	CII #: [redacted]
Booking #: ------	Primary Charge: Possession of a controlled substance for sales, 11378 HS	Secondary Charge:	
Coroner Case? ☒	Coroner Case #: 2009-06366	Intoxication/Drug Usage? ☒	Substance Used: Marijuana
Armed? ☐	Apprehended? ☒	Mental Illness? ☐	Criminal History? [redacted]
Vehicle Make: N/A		Model:	Year:

S ___

Last Name:	First Name:	M.I.:
AKA Last Name:	First Name:	M.I.:

Sex: Race:	Street Address:	City:	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #:	CII #:
Booking #:	Primary Charge:	Secondary Charge:	
Coroner Case? ☐	Coroner Case #:	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? ☐
Vehicle Make:		Model:	Year:

S ___

Last Name:	First Name:	M.I.:
AKA Last Name:	First Name:	M.I.:

Sex: Race:	Street Address:	City:	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #:	CII #:
Booking #:	Primary Charge:	Secondary Charge:	
Coroner Case? ☐	Coroner Case #:	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? ☐
Vehicle Make:		Model:	Year:

S ___

Last Name:	First Name:	M.I.:
AKA Last Name:	First Name:	M.I.:

Sex: Race:	Street Address:	City:	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #:	CII #:
Booking #:	Primary Charge:	Secondary Charge:	
Coroner Case? ☐	Coroner Case #:	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? ☐
Vehicle Make:		Model:	Year:

See Other Side

INTERNAL AFFAIRS BUREAU
INVESTIGATIVE SUMMARY
IAB CASE # IV2261013 / SH2251370

INVOLVED PERSONNEL: Kevin Brown, Deputy Sheriff [redacted] Lennox Station

LOCATION: [redacted] Poindexter Avenue, Los Angeles, CA 90044

DATE/TIME OF INCIDENT: September 14, 2009 / 2207 hours.

DATE OF DEPARTMENT NOTIFICATION: September 14, 2009

SYNOPSIS:

On September 14, 2009, Lennox Deputies Kevin Brown and Cristina Martinez were working the Early Morning Shift as radio car partners with a call sign of Unit 31. Deputy Brown was the driver of the vehicle. At approximately 2202 hours, they were dispatched to assist Unit 31D regarding a robbery "just occurred" at [redacted] The call stated two Black males robbed the victim of his wallet at gunpoint, then drove away in a dark Jeep Cherokee toward 119th Street and out of view. The shooting and robbery investigation was handled by the Los Angeles County Sheriff's Department Homicide Bureau. The investigation by Homicide Bureau is submitted as **EXHIBIT A**. A print out of the radio call is on page 47 of EXHIBIT A, and a copy of the robbery report written by Deputy Nick Coulter [redacted] is on page 63 of EXHIBIT A.

Upon acknowledging the robbery call, Deputies Brown and Martinez immediately patrolled the surrounding area attempting to locate the robbery suspects. A few blocks southwest of the robbery location, they drove southbound Van Buren Avenue to westbound Poindexter Avenue, Los Angeles.

> **IAB note: A satellite view of the robbery location and Poindexter Street are submitted as EXHIBIT B.**

While on Poindexter Street, Deputies Brown and Martinez saw two Black males whom them believed may have been associated with the robbery. The males stood in the driveway at [redacted] Poindexter Avenue, which is the [redacted] of Van Buren Avenue on the [redacted] side of the street. The males were later identified as Suspect

Darrick Collins and Witness [redacted] Deputy Brown stopped the radio car on the street facing westbound, east of where the two males stood, and both deputies exited the patrol car. When this occurred, Suspect Collins reached under his shirt with his right hand to his waistband area, and took a couple of steps backward before turning away and running in a southward direction. He ran to a wood gate on the east side of the property, which leads to the back yard of the location. Deputy Brown ran up a grass strip parallel to the driveway, behind Suspect Collins, and stopped about fifteen feet north of him. Deputy Brown said when Suspect Collins arrived at the front of the gate, he reached up with his left hand and grabbed the top of the gate and pulled it open about two feet, toward himself. As Suspect Collins opened the gate, his right hand was near the front of his waistband area. He stepped partially behind the gate and stopped while he turned his body counterclockwise. Deputy Brown said he saw Suspect Collins holding a black object which appeared to be the butt of a handgun protruding from the bottom of Suspect Collins' right hand, and that Suspect Collins pointed the object in his direction. Deputy Brown said he believed Suspect Collins was armed with a handgun and he feared Suspect Collins was going to shoot him. Deputy Brown fired three rounds at the suspect while the suspect was standing at the wood gate. The three rounds penetrated the wood gate and struck Suspect Collins on the left thigh, left abdomen area, and the back of his neck on the left side (See pages 94-97 and 103-107 of EXHIBIT A, for further information in the Autopsy Report regarding the Description Of Gunshot Wounds).

After being struck by gunfire, Suspect Collins fell to the ground approximately ten feet south of the wood gate, on the side yard of the property. A cell phone was found on the ground less than a foot from Suspect Collins' right hand. Deputy Brown transmitted emergent traffic and advised he had been involved in a shooting, and requested medical aid for the suspect and assisting units to cordon off the area.

Meanwhile, at the time Deputy Brown had exited the patrol car, Deputy Martinez exited the patrol car and ran around the rear of the vehicle and onto the driveway. She detained Witness [redacted] at gunpoint as she saw Deputy Brown run southbound on the strip of grass separating the properties. She said she was holding Witness [redacted] at gunpoint when she heard gunfire. She looked southward and realized Deputy Brown had fired his weapon. She said she continued to detain Witness [redacted] at gunpoint until assisting units arrived and secured the scene. It was later discovered Suspect Collins was not in possession of a firearm.

Suspect Collins was pronounced dead at the scene. The incident was documented in a report written by Lennox Deputy Terence Peterson #[redacted] under file number 009-09033-0378-013. The report is found on pages 1-3 of EXHIBIT A.

The scene was photographed by Scientific Services Bureau, Forensic Identification Specialist II, David Alonso and aerial photographs were taken by Forensic Identification Specialist, Robert Webber. The scene was also sketched by Forensic Identification Specialist, Martin Mutuc (See pages 84-87 and 90-91 of EXHIBIT A for further

information). Two compact discs containing the crime scene photographs are submitted as **EXHIBIT C**.

IAB Lieutenant Alicia Ault checked to see that the Lennox Station Watch Commander, Lt. Wegener took reasonable steps to ensure that the involved and witness personnel did not discuss the incident among themselves or with uninvolved persons prior to being interviewed by the assigned investigators, and that the involved and witness personnel did not collectively consult with their attorney or representative. In addition, IAB Lieutenant Ault checked to see if the watch commander attempted to have involved and witness personnel gather in the company of a supervisor until they provided a statement to the assigned investigators.

On September 16, 2009, Homicide Investigators served a search warrant and seized the wood gate from the shooting location. A copy of the search warrant, and the supplemental report documenting the search warrant service is found on pages 30 & 41-46 of EXHIBIT A. During Homicide Bureau's initial investigation of the scene, a video was taken of the scene, including footage of the motion of the gate as it swung open and closed. The wood gate was photographed and examined at the Crime Lab by Scientific Services Bureau. A copy of the video tape and the still photos of the gate are submitted as **EXHIBIT D**. The video footage of the gate being open and closed begins at 16:36 of the video.

IAB SHOOTING / FORCE TEAM:

Lieutenant Alicia Ault, Sergeant David Flores and Sergeant Victor Allen.

INVOLVED PERSONNEL:

Brown, Kevin #[redacted]	MB[redacted]	601/210	Right Handed
Lennox Station - Deputy Sheriff			
Region II			

Date of Employment:	10/30/01 (Lateral)
Date Assigned to Patrol:	[redacted]
Date Assigned to Rank:	06/01/07
Prior Shooting Incidents:	[redacted]
Prior Founded Force Incidents:	[redacted]

SUSPECT:

Collins, Darrick	MB/36	07/20/73	600/185

The Consolidated Criminal History Reporting System (CCHRS) and RAPS revealed Suspect Collins had an extensive criminal history. He had been arrested for the following crimes:

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

IAB note: The medical staff at Harbor General Hospital (Nurse Aurora Martinez) gave Lennox Deputy Eze Obineche #[redacted] Suspect Collins' property. Found within Suspect Collins' pants pocket were 24 pills resembling the narcotic, ecstacy. Deputy Obineche documented having received the property from the medical staff in his supplemental report, which can be found on page 13 of EXHIBIT A.

[redacted] Deputy [redacted] #[redacted] booked the Ecstasy into evidence. His supplemental report is found on page 14 of EXHIBIT A.

The 24 pills in Suspect Collins' possession were tested by Scientific Services Bureau, Senior Criminalist Victor Wong and found to be ecstacy (MDMA). Senior Criminalist Wong's supplemental lab report is found on page 82 of EXHIBIT A. A photograph of the ecstacy pills in Suspect Collins' possession is submitted as EXHIBIT E.

Details of Suspect Collins' criminal history can be found on pages 49-62 of EXHIBIT A.

EMPLOYEE WITNESS:

Cristina Martinez #[redacted]

NON-EMPLOYEE WITNESSES:

[redacted]



[redacted]

INJURIES / CORONER'S EXAMINATION:

Suspect Collins was pronounced dead at the scene by L.A. County Paramedic Christenson #[redacted] via telephonic consultation with Harbor General Hospital Doctor Burbullys, at 2230 hours. See pages 1-3 of EXHIBIT A for further information.

Suspect Collins' injuries were detailed in an Autopsy Report, which is located on pages 92-109 of EXHIBIT A. In addition to the Autopsy Report, a toxicology examination was performed on Suspect Collins, and he was found to have traces of tetrahydrocannabinol (THC / marijuana) in his system. The toxicology report may be found on page 110 of EXHIBIT A.

INVESTIGATOR'S OBSERVATIONS:

IAB Investigators arrived at the Command Post at approximately 2400 hours on September 14, 2009. During the walk through of the scene, which was given by Homicide Bureau Lieutenant David Dolson, IAB Investigators observed the porch light at the location was on and provided some illumination to the driveway, however, the east side of the location where the wood gate was located was poorly lit. There were three trash cans along the north end of the east exterior garage wall. The trash cans were 10-15 feet north of the wood gate, on the east side of the property. IAB Investigators observed the scene from behind yellow tape, across the street, north of the location.

The crime scene description was documented by Homicide Investigators on pages 33-36 of EXHIBIT A.

RADIO TRANSMISSIONS:

The Internal Affairs Bureau Investigator reviewed the radio broadcasts of the incident. There were three radio track transmissions recorded, which were copied onto two compact discs and submitted as **EXHIBIT F**.

Track 1 of EXHIBIT F, records the Dispatch channel used by Lennox Station. There are numerous radio transmissions on the recording, including the initial radio dispatch of the armed robbery at [redacted] which begins eight seconds into the recording. The emergent traffic by Deputy Brown advising he had been involved in a

shooting begins at 3:25 into the recording, and the coordination of field units to the scene begin at 7:38.

Track 2 of EXHIBIT F is a recording of the "L-Tac" frequency. Numerous transmissions are recorded and include communication with field units and Lennox Station desk personnel.

Track 3 of EXHIBIT F is a recording of the "A-Tac" frequency. These are transmissions by the command post, station desk and field personnel regarding the handling of the scene, witness escorts and hospital liaison assignments.

SUSPECT STATEMENT:

There were no statements made by Suspect Collins.

INVOLVED EMPLOYEE STATEMENT:

Witness Deputy Kevin Brown

On Tuesday, September 15, 2009, at 0206 hours, Homicide Detectives conducted a taped interviewed of Deputy Brown at Lennox Station. Homicide Detectives documented a summary of the interview, which is found on pages 19-24 of EXHIBIT A. IAB Investigators had the Homicide interview transcribed. The Homicide interview transcription is submitted under the Witness section of this case. The following is a summary of the Homicide interview transcription of Deputy Brown.

Deputy Brown said he was working patrol with Deputy Cristina Martinez as his partner. He said he had worked with Deputy Martinez a few times in the past, but she was not his regular partner. He said they were assigned as Unit 31, and he was the driver of their patrol car (See pages 1 & 5 of the Homicide interview transcription of Deputy Brown for further information).

Deputy Brown said they were dispatched a call to assist Lennox unit 31D on a robbery "just occurred" call. The call relayed that two Black males robbed an adult male with a semi-automatic handgun, and that the suspect vehicle was described as a grey Jeep Cherokee. Deputy Brown said unit 31D directed he and his partner to check the area for the suspects who had fled the scene. Deputy Brown said they checked the vicinity west of where the robbery took place. He stated the robbery took place in a predominantly Hispanic area, so he checked the area west of the robbery location because he knew that was where the Black gang member and Black population is located. He said within 2-3 minutes after the call was dispatched, he drove southbound on Van Buren and saw two Black males in front of [redacted] Poindexter. Deputy Brown noted the street was poorly lit (See pages 4, 5 & 15 of the Homicide interview transcription of Deputy Brown for further information).

In regard to the area where Suspect Collins and Witness [redacted] were standing, Deputy Brown said, "...usually in that area there's not a lot of people hanging out at all." He said as he drove westbound on Poindexter Avenue, he did not use his spotlight to illuminate the area where he stopped his vehicle, which was almost to the curb side of where the two males stood. He said the patrol car windows were down and the two Black males were approximately fifteen feet south of the curb, on the driveway and they appeared to be engaged in a conversation. He said it appeared they did not see the deputies until the patrol car was upon them. Deputy Brown said one of the males (Suspect Darrick Collins) immediately backed away as he illuminated him with his flashlight. He said Suspect Collins reached for the middle of his waistband, underneath his shirt, with his right hand. Deputy Brown said he believed the suspect was attempting to discard a weapon, and he immediately exited the patrol car and demanded that Suspect Collins show his hands. Deputy Brown said once he exited his radio car, he did not use his flashlight to illuminate the area. He said he used the light attached to his H&K .45 duty weapon (See pages 6-7 & 16-17 of the Homicide interview transcription of Deputy Brown for further information).

Deputy Brown said Suspect Collins ignored his commands to stop and he and his partner closed the distance, on foot, to where the two males were. He said Suspect Collins turned and ran southbound toward the gate on the east side of the residence. Deputy Brown said he heard Deputy Martinez tell the second male (Witness [redacted] to lay down on the ground, and he complied. Deputy Brown said he continued to walk at a fast pace toward the rear gate to where Suspect Collins had run. He said when Suspect Collins reached the gate, he (Brown) stood at the mid-point of the vehicle parked in the driveway of the location. He said Suspect Collins still had his hand in his waistband area when he reached the closed gate. Suspect Collins used his left hand to pull the gate open. As Suspect Collins pulled the gate opened, he bladed his body and turned to his left. Deputy Brown said he saw a black object, which he believed to be a handgun, in Suspect Collins' hand, and he ordered him to drop the object. Suspect Collins ignored his demands and kept turning his body. He said he believed Suspect Collins was going to shoot him, then he fired 2-3 rounds at Suspect Collins. Deputy Brown said when he fired his rounds, Suspect Collins went past the gate and the gate closed. He said after firing his rounds, he walked to the property east of the location and looked over the top of the wall and saw the suspect laying on the ground. Deputy Brown said he saw that Deputy Martinez was holding the other male [redacted] on the ground at gunpoint. Deputy Brown said he transmitted emergent traffic and requested medical aid (See pages 8-10 of the Homicide interview transcription of Deputy Brown for further information).

Deputy Brown said assisting units arrived and detained Witness [redacted] Deputy Brown said he and Deputy Martinez walked up to the gate and opened it while keeping their guns drawn on the suspect who was on the ground and not moving. He said he saw a cell phone next to the suspect, and his left hand underneath his shirt, near his waistband. He said the suspect did not say anything. He said he did not know where his rounds struck the suspect. Deputy Brown said they had assisting units relieve him

and his partner, and they went back toward their patrol vehicle (See page 11 of the Homicide interview transcription of Deputy Brown for further information).

Deputy Brown said he had never had prior contact with the two males. He said he did not see a Jeep Cherokee, but believed the two males in the driveway were involved in the robbery because of the close proximity to the robbery, and the suspect description in the call (See page 13 of the Homicide interview transcription of Deputy Brown for further information).

Deputy Brown said when Suspect Collins reached the gate, he believed he was attempting to flee as he grabbed the top of the gate. He said Suspect Collins then bladed himself toward him (Brown), and that is when he decided to shoot his duty weapon. He said after the shooting, he opened the gate and there was a pitbull dog in the yard. One of the assisting deputies knocked on the front door and asked the resident to secure the dog inside the house (See page 14 of the Homicide interview transcription of Deputy Brown for further information).

On November 17, 2009, Internal Affairs Bureau Investigators conducted a taped interview of Witness Deputy Kevin Brown at Santa Clarita Sheriff's Station. Four photographs, which are submitted as **EXHIBIT G** were used during the interview. The following is a summary of the IAB interview of Deputy Brown.

Deputy Brown said when he was initially searching for the robbery suspects, he drove northbound on Van Buren Avenue and passed Poindexter Street. He said he did not see anything suspicious, so he made a U-turn and drove southbound on Van Buren Avenue. When he neared the corner of Van Buren Avenue and Poindexter Street, he looked to his right and saw Suspect Collins and Witness [redacted] about fifty yards away on Poindexter Street. They appeared to be engaged in a conversation (Refer to photograph #2 used in the IAB interview of Deputy Brown, and See pages 2-3 of the IAB interview transcription of Deputy Brown for further information).

Deputy Brown said he noticed an SUV parked in the driveway east of where Suspect Collins and Witness [redacted] were standing. Deputy Brown said he believed the SUV may have been the suspect vehicle described in the call (See page 4 of the IAB interview transcription for further information).

Deputy Brown said he stopped his patrol car 10-15 yards east of where Suspect Collins and Witness Jenkins were standing. He said the males were at his ten o'clock position and he illuminated them with his handheld flashlight (See pages 5-6 of the IAB interview transcription for further information).

Deputy Brown said when the suspect initially turned to run toward the wood gate, the suspect's back was to him and he could not see the suspect's hands. He said Suspect Collins ran with his hand concealed under his shirt the entire time, until he reached the wood gate then used his left hand to open the gate (See pages 8-9 of the IAB interview

transcription of Deputy Brown for further information).

Deputy Brown said when he followed Suspect Collins to the wood gate, he stopped on the grass area, east of the driveway, in line with the front of the garage.

> **IAB note: Deputy Brown said during his IAB interview, after seeing a photograph of the scene, his recollection of where he stood when he fired his weapon was closer to Suspect Collins than what he related to Homicide Investigators. Instead of standing in line with the center of the Buick Riviera, he said he was standing in line with the front of the garage.**

Deputy Brown said as he stood on the grass area, in line with the front of the garage, he illuminated the suspect with the flashlight mounted on his duty weapon (Refer to photograph #3, and see pages 6-7 of the IAB interview transcription of Deputy Brown for further information).

Deputy Brown said he has experienced numerous suspects run away from him in the past, but Suspect Collins' actions were different than anything he had experienced before. He said in his experience, most suspects would have run past the gate to flee, but Suspect Collins paused and "bladed" himself at the gate. He said the suspect was about fifteen feet away from him when the suspect turned his body from a south to an east facing direction. He said it appeared the gate rested against the suspect's foot as he turned. He said at that point, he could see the suspect's right hand sticking out from the open part of the gate as the gate partially concealed the suspect's body (See page 10 of the IAB interview transcription of Deputy Brown for further information).

Deputy Brown said while the suspect was standing at the gate, he made eye contact with him, and it appeared the suspect used the gate as cover as he held the black object in his right hand. Deputy Brown said he moved eastward slightly, realizing he could use the parked vehicles next to him as cover. Deputy Brown said the shooting occurred as he moved eastward and he fired while moving. During this time, he said he saw what appeared to be the butt of a handgun protruding out of the bottom of the suspect's right, clenched fist, and it was pointed in his direction.

Deputy Brown described in photograph #4 of his interview the configuration of the gate and where the suspect was standing at the time of the shooting. He said the majority of the suspect's right side was behind the gate. He said he could see the suspect's left side and the suspect's right hand from behind the gate as the suspect stood facing a northeasterly direction. He said he recalled seeing the suspect run behind the gate while he fired his weapon, but stated the gate was open while he fired and he had a physical target of the suspect when he fired all three rounds, then the gate closed (See pages 11-13 of the IAB interview transcription of Deputy Brown for further information).

Deputy Brown said after the shooting, he walked up to the cinder block wall next to the wood gate and used the wall as cover to look over the gate to ascertain the suspect's

whereabouts. Deputy Brown indicated on photograph #4 where he used the wall as cover. He said after the shooting, he transmitted emergent radio traffic to advise he was involved in a shooting. He said immediately after the shooting, he told Deputy Martinez the suspect had a handgun, and she replied saying she had observed the suspect reach for his waistband. He said that was the extent of their conversation, then assisting units arrived on scene (See pages 14-15 of the IAB interview transcription of Deputy Brown for further information).

Deputy Brown said when he and Deputy Martinez walked past the wood gate and approached Suspect Collins, he saw the suspect laying face down with his left hand underneath his body and his right hand out. He said he saw a cell phone on the ground about ten inches above the suspect's right hand. He said the suspect lay approximately ten feet south of the wood gate (See page 16 of the IAB interview transcription of Deputy Brown for further information).

EMPLOYEE WITNESS

Witness Deputy Cristina Martinez

On September 15, 2009, at approximately 2207 hours, Homicide Detectives interviewed Deputy Martinez at Lennox Station in the presence of IAB Investigators. The interview was tape recorded, and a supplemental report summarizing the interview was written by Homicide Detectives. The Homicide supplemental report is found on pages 28-29 of EXHIBIT A. IAB Investigators had the Homicide interview transcribed. The Homicide interview transcription is submitted in the Witness section of this case. The following is a summary of the Homicide interview transcription of Deputy Martinez.

Deputy Martinez said she was the book-man in Lennox Unit 31 with Deputy Kevin Brown. She said he was not her regular partner, but she had worked with him on four prior occasions (See pages 1 & 9 of the Homicide interview transcription of Deputy Martinez for further information).

Deputy Martinez said she and Deputy Brown received a call to assist with a robbery "just occurred" incident involving two Black males. She and her partner checked the vicinity and drove northbound on Van Buren where they saw two Black males at curbside on Poindexter Avenue. They drove onto Poindexter Avenue and contacted the males. One of the males grabbed his waistband and ran southward. She said Deputy Brown ordered the suspect to stop as he exited the patrol car. Deputy Martinez said she exited the patrol car and went around the trunk area of the vehicle to contact both males. The first suspect ran toward the back gate of the property as she remained at the front of the property and detained the second suspect. Deputy Martinez said she heard her partner order the first suspect to show his hands and stop. She said her vision of the first suspect was blocked by her partner as she held the second suspect at gunpoint. She said the second suspect complied with her orders and laid on his stomach. At that time, she said she heard 3-4 rapid gunshots, then saw the first

suspect going through the back gate. She said Deputy Brown was approximately 15 feet away from her, and saw he was okay, then she turned her attention back to the second suspect (See pages 2, 3 & 9 of the Homicide interview transcription of Deputy Martinez for further information).

Deputy Martinez said she never heard the suspect say anything at the time of the shooting. She said when she looked in the direction of the suspect, she saw the gate was open and could see the top part of the suspect's head as she looked past her partner. She said she held the second suspect at gunpoint for about one minute until assisting units arrived. She said the incident happened very quickly (See page 4 of the Homicide interview transcription of Deputy Martinez for further information).

Deputy Martinez was asked why she honed in on the two males in the driveway. She said because of the nature of the call being an armed robbery with a handgun, and the two males were the only two Black males in the area, so they contacted them. She said the dispatched call stated the suspect vehicle was a dark Jeep Cherokee. She said she and her partner made contact with the two males within 2-3 minutes of the call being dispatched (See pages 4, 5 & 8 of the Homicide interview transcription of Deputy Martinez for further information).

Deputy Martinez described Suspect Collins' actions when he was first contacted by them. She said he (Collins) immediately took a couple of steps back, grabbed his waistband and turned his body. She said Collins' shirt was large and covered both his hands as he held his waistband. She said she lost sight of the suspect for a couple of seconds as she exited the patrol car, but when she faced the residence (southbound) again she saw Collins running toward the back gate of the property. She said she heard Deputy Brown give Collins an order to stop, then she turned toward Deputy Brown. At that point, she said she turned to detain the second suspect (Jenkins). See pages 6-7 of the Homicide interview transcription of Deputy Martinez for further information.

Homicide Detectives asked Deputy Martinez regarding the scene and the initial contact of the two males. Deputy Martinez said she and her partner drove westbound on Poindexter from Van Buren. She said the lighting conditions were dark. She said she did not use her patrol car's spot light, and did not recall if Deputy Brown utilized his spot light. She said the males were facing north from [redacted] Poindexter Street when they were contacted. She said there was a gray vehicle in the driveway. She said Deputy Brown stopped the patrol car in front of the two males when they contacted them (See pages 10-11 of the Homicide interview transcription of Deputy Martinez for further information).

Deputy Martinez said there was a patch of grass on the west side of the property. The suspect ran southbound passing the patch of grass to the wood gate. She said the gate was closed, and she saw the suspect open the gate with one hand, then she drew her attention back to the suspect she was detaining at gunpoint. She said Deputy

Brown stood closest to her, and beyond him was the suspect, then the wood gate. She said Deputy Brown transmitted emergent traffic over the radio. When assisting units arrived on scene, she and Deputy Brown approached the suspect (See pages 12-14 of the Homicide interview transcription of Deputy Martinez for further information).

Deputy Martinez said the suspect was 1-2 feet past the gate. He was on the ground with his hands tucked underneath his body. She said she could tell he was injured and saw a pool of blood (See pages 15-16 of the Homicide interview transcription of Deputy Martinez for further information).

Deputy Martinez said there was a grey vehicle parked in the driveway at the residence where the two males were standing. She said the grey vehicle was parked facing the house, in a southward direction.

> **IAB note: There were two vehicles parked in the driveway of the residence. A red Toyota Camry was parked head in facing the residence. The second vehicle, a black Buick Riviera, was east of the first vehicle and closest to the patch of grass. It was backed in the driveway facing the street.**

Deputy Martinez said she was standing near the bumper closest to the sidewalk of the grey vehicle at the time of the shooting. She said Deputy Brown was 10-15 feet south of her, on the patch of grass at the time of the shooting (See pages 16-17 of the Homicide interview transcription of Deputy Martinez for further information).

On November 17, 2009, Internal Affairs Bureau Investigators conducted a taped interview of Witness Deputy Cristina Martinez at Santa Clarita Sheriff's Station. Five photographs, which are submitted as **EXHIBIT H** were used during the interview. The following is a summary of the IAB interview of Deputy Martinez.

Deputy Martinez said when she first noticed Suspect Collins and Witness Jenkins, they were standing near the east portion of the property at [redacted] Poindexter Avenue, near the grass area or sidewalk (refer to photograph #1 used in the IAB interview of Witness Martinez). As Deputy Brown was putting the car in "Park," Suspect Brown took a couple of steps back and began running (See pages 3-4 of the IAB interview transcription of Deputy Martinez for further information).

Deputy Martinez said when she exited the patrol car, she knew Deputy Brown was closing the distance on Suspect Collins. She said she momentarily lost sight of the males because the vehicle and the light bar blocked her view. (See pages 7 & 18 of the IAB interview transcription of Deputy Martinez for further information).

Deputy Martinez said she stood facing a southwest direction as she held Witness [redacted] at gunpoint on the driveway. She said she stood on the grass portion on the east side of the property and ordered Witness [redacted] to a prone position. She said she stood 1-2 feet away from Witness [redacted] feet, and that his head was further away

from her than his feet (See pages 5-7 of the IAB interview transcription of Deputy Martinez for further information).

Deputy Martinez said she heard Deputy Brown order Suspect Collins 2-3 times to stop and show his hands. She said it seemed almost simultaneous when she heard Deputy Brown's orders to Suspect Collins, her orders to Witness [redacted] to get into a prone position, then the gunshots. She said the wood gate was open approximately two feet when she saw the suspect at the gate (See pages 3-4 & 7-8 of the IAB interview transcription of Deputy Martinez for further information).

Deputy Martinez said at the time of the shooting, she did not know if Suspect Collins was in front of the gate, or behind the gate. She said at that time, she was not looking in Suspect Collins' direction (See page 9 of the IAB interview transcription of Deputy Martinez for further information).

Deputy Martinez said Deputy Brown was standing between the rear bumper of a vehicle (Buick Riviera) backed into the driveway, and the front of the garage just prior to the shooting (Refer to photograph #5 used in the IAB interview of Deputy Martinez, and see page 18 of the IAB interview transcription of Deputy Martinez for further information).

Deputy Martinez said immediately after the shooting, she inquired of Deputy Brown if he was okay. She said he told her the suspect had a gun, to which she replied she saw Suspect Collins reach for his waistband (See pages 10-11 of the IAB interview of Deputy Martinez for further information).

Deputy Martinez said after the shooting, she and Deputy Brown walked up Suspect Collins, and stood within inches of him. She said she looked to see if the suspect was breathing, and there was no response from him (See page 16 of the IAB interview of Deputy Martinez for further information).

NON-EMPLOYEE WITNESS INTERVIEWS:

Witness [redacted]

On September 15, 2009, Homicide Investigators conducted a taped interview of Witness [redacted] at Lennox Sheriff's Station. The interview was summarized in a report by Homicide Investigators, which is found on pages 29-30 of EXHIBIT A. IAB Investigators had the Homicide interview transcribed. The transcription is located in the Witness section of this report. The following is a summary of the Homicide Bureau interview transcript.

Witness [redacted] said he was playing video games at the rear of the location on Poindexter Street where his [redacted] He said he decided to go home and stood in front of the location while he warmed up his vehicle. He said he saw Suspect Collins who is a relative of his friends, and whom he knows as, "E." He said he was talking with

Suspect Collins for about five minutes when he saw a patrol car driving on Van Buren Avenue (See pages 1, 3 & 8 of the Homicide interview transcription of Witness [redacted] for further information).

Witness [redacted] said he was facing Van Buren Avenue while talking to Suspect Collins in front of the location when a patrol car drove up to them and stopped about forty feet away. He said Suspect Collins started running and a male deputy chased him and ordered Suspect Collins to stop. Witness [redacted] said a female deputy pointed a taser at him ([redacted]) and ordered him to the ground. He said he complied with the female deputy (See pages 2, 4-5 & 13-14 of the Homicide interview transcription of Witness [redacted] for further information).

Witness [redacted] said Suspect Collins did not say anything when the patrol car drove up. He said he and Suspect Collins had been talking for about five minutes before the patrol car arrived, then once the patrol car pulled up Suspect Collins just started running. He said the deputy ordered Suspect Collins once to stop, or he would shoot. Witness [redacted] said from the time the deputies arrived to the time of the shooting was 5-10 seconds (See pages 6-8 of the Homicide interview transcription of Witness [redacted] for further information).

Witness [redacted] said when he lay on the ground, he was in a position to be able to see the direct path Suspect Collins took when he fled. He said at one point, he initially lost sight of Suspect Collins when he started running, then he saw the deputy run past him, then he heard gunfire. Witness [redacted] said he did not see the deputy fire his weapon, but heard three quick gunshots. Witness [redacted] said the deputy who fired his handgun was very close to him during the shooting and was nearly shoulder to shoulder in distance when he ran past him. Witness [redacted] said when the gunfire erupted, he got on the ground and could see Suspect Collins on the ground in the backyard. He said at the time he did not know if Suspect Collins had been struck by gunfire. Witness [redacted] said after the shooting, the deputy who fired his weapon did not say anything. Then an ambulance and Fire personnel arrived on scene (See pages 11-12 of the Homicide interview transcription of Witness [redacted] for further information).

Witness [redacted] said when the deputies pulled up to him, he did not have a weapon and did not believe Suspect Collins had a weapon. He said he was not aware of Suspect Collins ever being arrested in the past for narcotics, however, Witness [redacted] said he had been [redacted] (See pages 12-13 of the Homicide interview transcription of Witness [redacted] for further information).

Witness [redacted] said he has seen Suspect Collins in a black (Nissan) Maxima in the past, and has never seen him in an SUV. He said to his knowledge, he does not know of any of Suspect Collins' friends to drive an SUV (See page 15 of the Homicide interview transcription of Witness [redacted] for further information).

Witness [redacted]

On September 15, 2009, at approximately 0410 hours, Homicide Detectives conducted a taped interview of Witness [redacted] at Lennox Station. A supplemental report summarizing the interview was written by Homicide Detectives. The Homicide supplemental report can be found on pages 39-40 of EXHIBIT A. IAB Investigators had the Homicide interview transcribed, and is submitted under the Witness section of this case. The following is a summary of the Homicide interview transcription of Witness [redacted].

Witness [redacted] said he lived at [redacted] and works for the [redacted]

IAB note: [redacted] of where the shooting occurred.

Witness [redacted] said at approximately 2200 hours, he was the passenger of a vehicle driven by his [redacted] and [redacted] Ms. [redacted] Witness [redacted] said Ms. [redacted] drove southbound on Van Buren Avenue when he saw a patrol car driving northbound on Van Buren Avenue.

IAB note: On 11/10/09, Homicide Investigators notified IAB Investigators they contacted Ms. [redacted] at her workplace. Ms. [redacted] said she had no knowledge of the incident. Homicide Investigators believed Witness [redacted] was less than truthful in supplying the correct identity of the female driver.

Witness [redacted] said their vehicle was illuminated by one of the officers in the patrol car. He said they turned onto Poindexter and stopped. The officers stopped behind them, in front of [redacted] Poindexter Street. The officers stopped in front of the driveway of the residence, and the saw two people standing outside the residence (See pages 1-3 of the Homicide interview transcription of Witness [redacted] for further information).

Witness [redacted] said he recognized one of the males whom he knew as,"Darrick," but he did not know his last name. He said he was grabbing his shirt or a bag, and as he closed the door, he saw an officer exit the patrol car with his weapon drawn. He said he saw the officer fire 3-4 gun shots as he ran down the driveway toward the residence (See page 4 of the Homicide interview transcription of Witness [redacted] for further information).

Witness [redacted] said he realized Darrick was at the gate of the residence. He said he had literally just exited Ms. [redacted] vehicle when the shooting occurred. He said he walked eastward on the sidewalk and looked down the driveway of the residence, and saw "someone" laying face down on the ground. He said he could only see the person's shoes, shirt and shorts, but did not see the person's face. He said the person

was laying inside the back yard of the residence (See pages 5-6 of the Homicide interview transcription of Witness [redacted] for further information).

Witness [redacted] said he saw the second male on the driveway kneel or get on the ground. The male was handcuffed and placed in a radio car a minute or two after the shooting. Witness [redacted] described the shooter deputy as a Black male with a bald head. He said he saw the deputy hold his firearm with both hands during the shooting. Witness [redacted] said after the shooting, he also saw Fire Department personnel arrive on scene, and they took Darrick's body from the scene (See page 7 of the Homicide interview transcription of Witness [redacted] for further information).

Witness [redacted]

On September 15, 2009, Homicide Detectives Ewing and Lloyd interviewed Witness [redacted] in the presence of Senior Investigators [redacted] and [redacted] and Deputy District Attorney Natalie Adomian, from the Los Angeles County District Attorney's Office. The interview was documented by Homicide Detectives and is found on pages 37-38 of EXHIBIT A. Witness [redacted] told Homicide Investigators he did not see the shooting. The following is a summary of the Homicide interview.

Witness [redacted] said he lives at [redacted] with his [redacted] and [redacted] Witness [redacted] said he resides in the rear detached guest house. He said Suspect Collins is his [redacted]

Witness [redacted] said earlier in the evening, he and Suspect Collins, and one of Collins' [redacted] were playing video games at [redacted] residence. At approximately 2200 hours, Collins and his friend left the location. Witness [redacted] said about five minutes later, he heard three gunshots. Witness [redacted] said he walked outside and saw his [redacted] screaming. He said he saw his [redacted] (Suspect Collins) lying face down on the ground and 3-4 deputies standing next to him (Suspect Collins). Witness [redacted] said approximately seven minutes later, he saw paramedics roll Suspect Collins on his back and he could see that Suspect Collins had been shot in the back of the head.

Witness [redacted]

On September 15, 2009, Homicide Detectives Ewing and Lloyd interviewed Witness [redacted] in the presence of Senior Investigators [redacted] and [redacted] and Deputy District Attorney Natalie Adomian, from the Los Angeles County District Attorney's Office. The interview was documented by Homicide Detectives and is found on page 38 of EXHIBIT A. Witness [redacted] told Homicide Investigators he did not see the shooting. The following is a summary of the Homicide interview.

Witness [redacted] said he lives at [redacted] with his [redacted] and [redacted] He said his [redacted] lives in the guest house. Witness [redacted] said at about 2200 hours, he was inside his residence when he heard

gunshots. He said he heard their dog barking in the backyard and looked outside from the back patio door. He saw several deputies in the backyard who told him to secure the dog. Witness [redacted] said he saw his [redacted] lying on the ground, face down. He said paramedics arrived approximately five minutes later, then his [redacted] was taken away by medical personnel.

Witness [redacted]

On September 15, 2009, Homicide Detectives Ewing and Lloyd interviewed Witness [redacted] in the presence of Senior Investigators [redacted] and [redacted] and Deputy District Attorney Natalie Adomian, from the Los Angeles County District Attorney's Office. The interview was documented by Homicide Detectives and is found on pages 38-39 of EXHIBIT A. Witness [redacted] told Homicide Investigators he did not see the shooting. The following is a summary of the Homicide interview.

Witness [redacted] said she [redacted] at the location with [redacted] She said at approximately 2200 hours, she was in her bedroom and heard the gate on the east side of the property close. She said minutes later, she heard three gunshots from outside the house. She said she looked outside and saw a person lying on the ground. She said at first she thought it was her [redacted] but she later realized it was her [redacted] who was lying on the ground. Witness [redacted] said she saw her [redacted] (Suspect Collins) receive medical treatment, then she went inside her residence. She told Homicide Detectives she had no additional information.

Witness [redacted]

On September 15, 2009, Homicide Detectives Lankford and T. Martinez interviewed Witness [redacted] at Lennox Station. The interview was tape recorded and a Spanish interpreter (Deputy [redacted] #[redacted] was used to assist in the interview. Homicide Investigators summarized the interview which can be found on pages 18-19 of EXHIBIT A. IAB Investigators had the Homicide interview transcribed. The Homicide interview transcription is submitted in the Witness section of this case. The following is a summary of the Homicide interview transcription.

Witness [redacted] said on September 14, 2009, at approximately 2200 hours he left his residence on foot to walk to the Ralphs Market at the corner of Vermont Avenue and 120th Street.

> **IAB note: At the time of the incident, Victim [redacted] address was [redacted] The Ralphs Market is approximately [redacted] mile southeast of the victim's residence, according to Google Earth Pro mapping program.**

Witness [redacted] said when he left his residence, he crossed the street. While he was on

the sidewalk, a vehicle stopped in the middle of the street. The vehicle appeared to be a light grey 2002 Jeep Cherokee, or similar type SUV (See pages 2, 7,12-13 of the Homicide interview transcription of Witness [redacted] for further information).

Witness [redacted] said there were two Black males associated with the SUV. He said the front passenger did not exit the vehicle. The driver (suspect) walked up to him and used his right hand to aim a semi-automatic handgun at him and demanded money. Witness [redacted] told the suspect he did not have any money to give him. He said he heard what sounded like the hammer of the handgun cock back, then suspect pressed the handgun against his [redacted] chest. Witness [redacted] said he was scared and reached into his right rear pants pocket and retrieved $8.00 and gave his money to the suspect (See pages 2-5 & 11 of the Homicide interview transcription of Witness [redacted] for further information).

Witness [redacted] said the suspect checked his [redacted] pockets and found his wallet in his left front pants pocket. The suspect took his wallet and ran back to the SUV. Witness [redacted] described the suspect as a Black male 20-25 years of age, about six feet tall with a thin build. He wore dark clothing, including long pants and a short sleeve shirt. After the suspect ran toward his vehicle, Witness [redacted] said he also turned around and ran away (See pages 5, 8 & 9 of the Homicide interview transcription of Witness [redacted] for further information).

Witness [redacted] said the suspect got into the SUV, which was about thirty feet away and drove southbound on Berendo Avenue and made a right turn to westbound 119th Street. Witness [redacted] said he had never been robbed before and he was very scared (See pages 11-14 of the Homicide interview transcription of Witness [redacted] for further information).

A compact disc containing the audio of the Homicide Bureau interviews of Deputies Kevin Brown and Cristina Martinez, and the Witness interviews of [redacted] and [redacted] is submitted as **EXHIBIT I**.

> **IAB note: The Homicide Bureau interviews submitted in EXHIBIT I were transcribed, and the transcriptions are submitted in the Witness portion of this case.**

A compact disk containing the audio of the Homicide Bureau interviews of Witnesses [redacted] and [redacted] is submitted as **EXHIBIT J**.